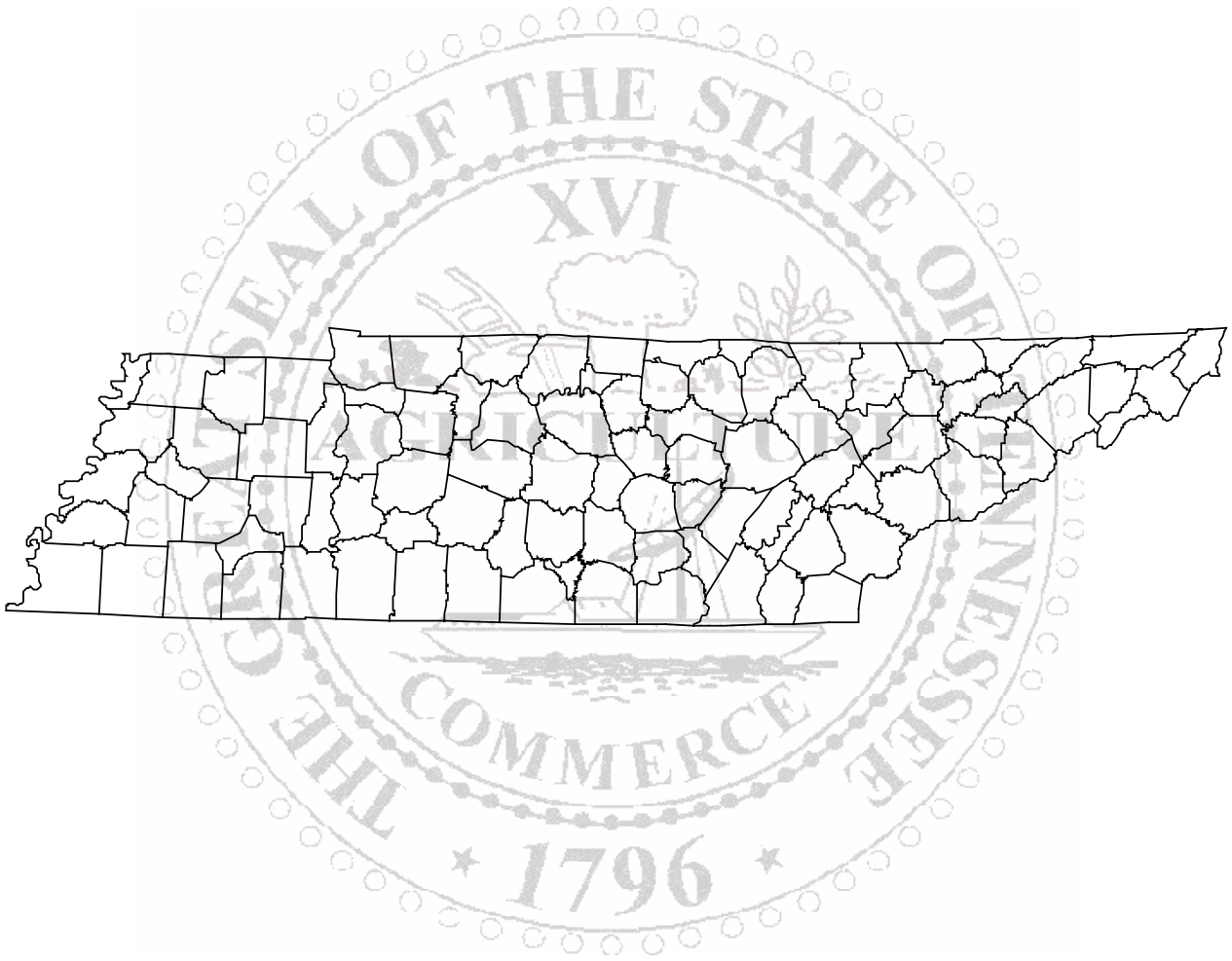


Tennessee Planning Commissioner Handbook



**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
LOCAL PLANNING ASSISTANCE OFFICE**

Tennessee Planning Commissioner Handbook

**Tennessee Department of Economic
and Community Development
Local Planning Assistance Office**

January, 2003

Second
Edition

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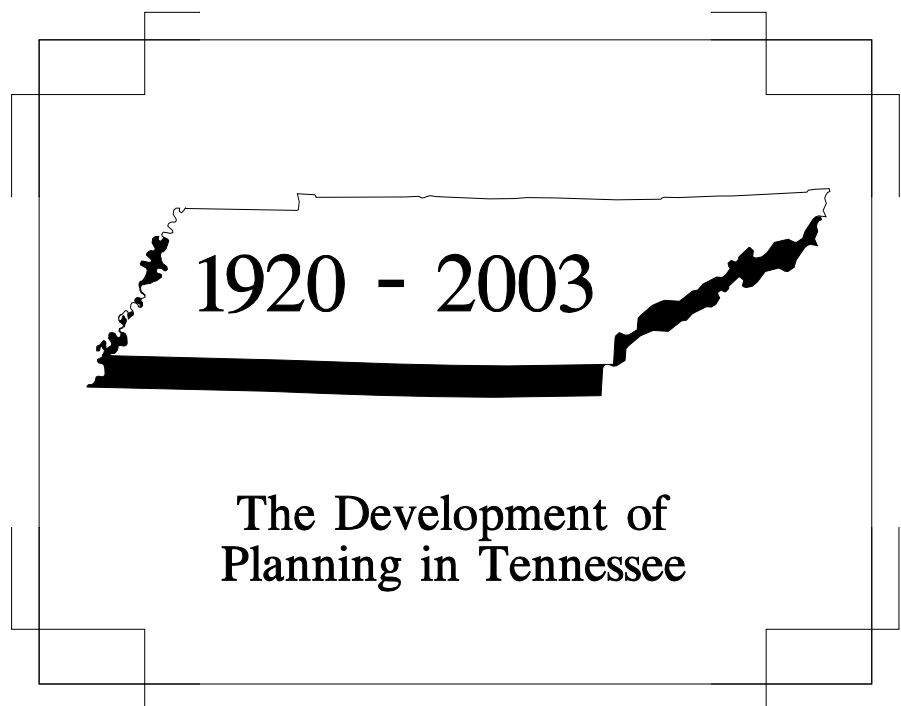
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Planning presupposes and requires that rationality triumph over irrationality, order over disorder, constructive hope over discouragement and fatalism, action over inaction. It requires extra energy; it is much easier to continue in the existing condition and change only when necessary than to struggle to achieve improvement...In addition, planning is analytically exacting requiring the full range of human knowledge, and procedurally difficult to implement because of individual and organizational reluctance to change and undertake steady advance. Like all human activity, planning always operates to someone's disadvantage; there are no plans that benefit everyone equally. Each of these characteristics of the comprehensive planning process makes it harder to establish and perpetuate.

Melville C. Branch from Comprehensive Planning General Theory and Principles

CHAPTER I



One of the cardinal facts of planning in Tennessee is that it has survived the period of decline and disinterest which succeeded the naive enthusiasm of the early New Dealers...Local Commissions, despite their ups and downs, are now numerous and active.

From: "An Evaluation of Planning in Tennessee," Government in Tennessee, by Lee Greene and Robert Avery

CHAPTER I

THE DEVELOPMENT OF PLANNING IN TENNESSEE

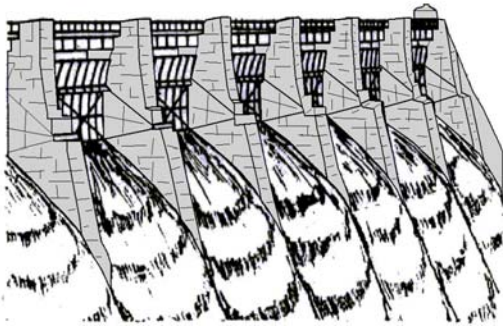
This chapter traces the evolution of planning as a governmental concern or function in Tennessee. It is intended as an overview, placing planning in its historical perspective. Tennessee is one of a few states that can take pride in an eighty-year history of community planning; therefore, the brief sketch which follows serves both to inform and give credit.

EMERGING AGENCIES AND ROLES

City planning first emerged in Tennessee following World War I. In 1920 Memphis became the first city in the state to create a planning commission. It was 1921, however, before the state legislature authorized the official creation of the planning commission and granted the city power to adopt zoning regulations. In the following year, two more cities, Knoxville and Chattanooga, established planning commissions. They were followed by Nashville, which created a planning commission in 1925, and by Johnson City in 1927. The first county planning commission was established in 1931 when the Shelby County Planning Commission was created by private acts of the State Legislature.

Most of the early work for these planning commissions was undertaken by outside consultants. The plans were primarily concerned with street development, public buildings, civic centers, railroads, and zoning regulations. These plans were impressive but they were also expensive to implement. Consequently, while some implementation took place, most recommendations were left unaccomplished because they exceeded the budgetary constraints of city administrations.¹

Tennessee Valley Authority

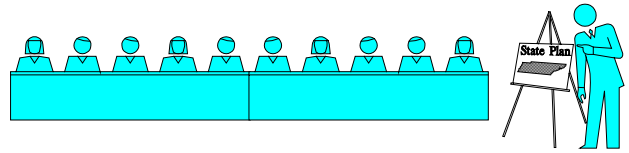


While attempts at city planning were initiated in the 1920's, planning on a state-wide basis was not undertaken in Tennessee until the 1930's. At the state level, planning was heavily influenced by the federal government through the Tennessee Valley Authority and the National Planning Board, later known by various other names (National Resources Board, National Resources Committee and the National Resources Planning Board).

The Tennessee Valley Authority proposed in 1933 that the state create a Tennessee Valley Commission. This commission was created with six citizens appointed to serve. Later in 1933, when the National Planning Board was encouraging all states to create state-wide planning agencies, the Tennessee Valley Commission was renamed the Tennessee State Planning Board. Some of the major activities of this body were: (1) working with the federal government to improve the Tennessee Valley, (2) surveying the possibility of less expensive electric power for Tennessee, and (3) obtaining the coordination of state agencies with the Tennessee Valley Authority.²

Tennessee State Planning Commission

The National Resources Planning Board, through a program of the New Deal, brought about the creation of the Tennessee State Planning Commission in 1935. The federal government offered financial assistance to Tennessee and all other states for planning functions. They only had to adopt legislation creating a state-wide planning commission and to oversee the development of plans. This legislation was enacted by Tennessee in 1935.



By 1936, forty-seven of the forty-eight states had created state planning agencies. These efforts were short-lived, however, and by 1940 most states had abolished their planning commissions outright or had combined them with other state agencies. Tennessee was one of four states that maintained and strengthened its planning program, and as a result, planning became an important and respected part of state government. According to Harold V. Miller, the distinguished former Executive Director of the Tennessee State Planning Commission, three major factors contributed to the continuation of Tennessee's program. These were: the relationship with the Tennessee Valley Authority, a non-partisan technical operation, and the adaptation of the program to real needs.³

Tennessee's planning legislation developed from meetings of the Tennessee Valley Commission and the Board of Directors of the Tennessee Valley Authority. Realizing that the state should have the best possible planning legislation, the Tennessee Valley Authority retained noted planner and attorney Alfred Bettman of Cincinnati as a consultant. The 1935 Tennessee General Assembly favorably received and enacted virtually all of Bettman's work. Thus, the Tennessee State Planning Commission was created under the State and Regional Planning Act. The 1935 General Assembly also passed the following Acts, which established the parameters for local planning in Tennessee: (1) County Zoning Act, (2) Municipal Planning Act, (3) Municipal Zoning Act, (4) Municipal Subdivision Act.⁴

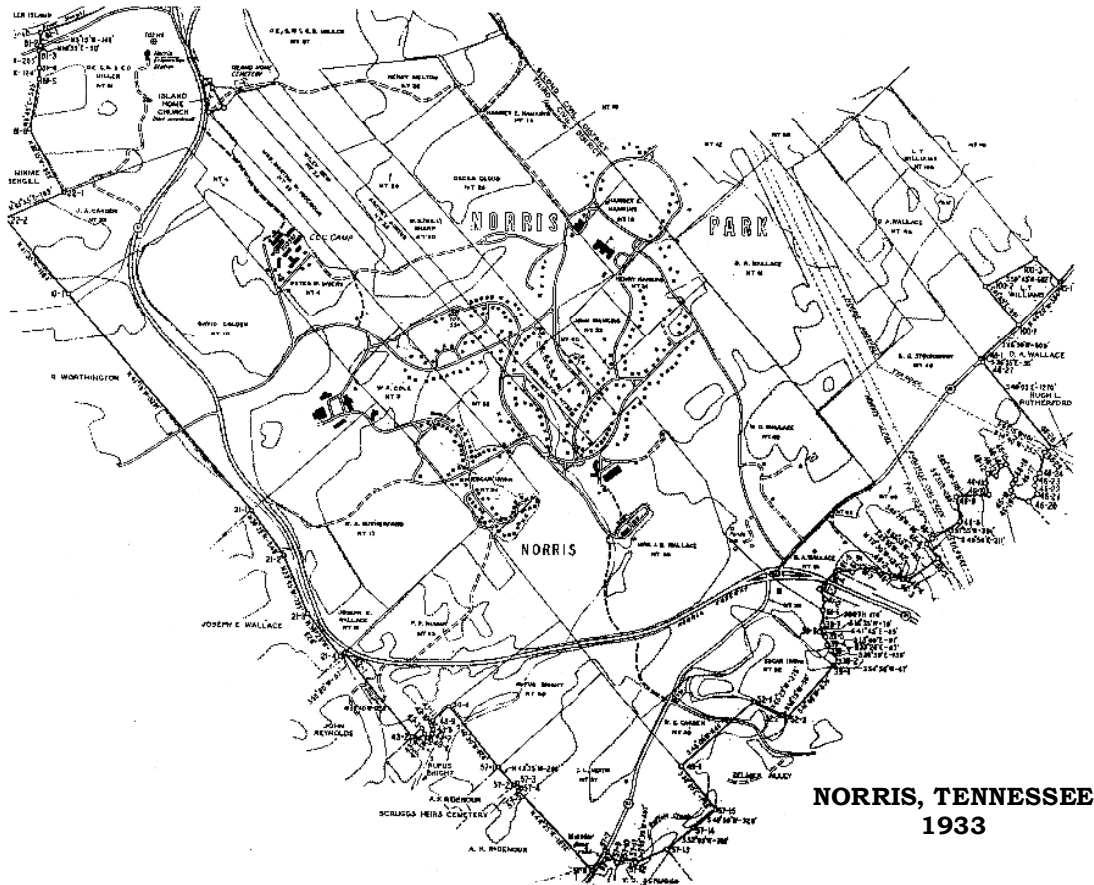
The Act creating the Tennessee State Planning Commission described its powers and functions as follows:⁵

1. A commission of nine members was to be formed. The commission was to be composed of the Governor and eight citizens appointed for four-year staggered terms by the Governor.
2. The commission was to be appointed from more than one political party.
3. The commission had power to appoint an executive director and other employees to work with the geographical and political subdivisions of the state.
4. The commission was charged with the responsibility of preparing a comprehensive state plan.

5. The commission was to advise other state agencies.
6. It was also to advise the Governor and General Assembly on financing public works.
7. All departments were to refer plans to the commission for review.
8. The commission was empowered to create regional commissions, which could adopt regional plans.
9. All plans of the commission were advisory only.

EARLY PROGRAMS: TSPC AND TVA

Following the enactment of enabling legislation and the establishment of the State Planning Commission, a staff was hired to carry out programs developed by the commission. The commission's staff was responsible for three major functions as it extended services to the state and its local governments. These were: (1) preparation of projects that were state or regional in scope; (2) collecting data, conducting research, editing of reports and publications, preparing special reports for the Governor; and (3) extending local planning assistance to communities.



As noted earlier, the Tennessee Valley Authority assisted the state in developing planning legislation and encouraged the creation of the Tennessee State Planning Commission. The Tennessee Valley Authority also called on the state for assistance in some of its early work of building dams. The construction of these dams directly and indirectly had an impact on urban environments and the economic bases of several communities. In order to assist these communities in finding solutions to the problems brought about by the Tennessee Valley Authority's construction activities, the federal agency encouraged the state to provide planning to assist the affected communities. This request was largely responsible for establishment of the Tennessee State Planning Commission's program of concentrated local planning assistance to Tennessee communities.⁶

The earliest work of the commission was primarily concerned with physical planning at the state level. Early studies and reports eventually brought significant results through implementation of plans for physical improvements and the enhancement of economic activities. These studies included a series of reports on land use problems, which were prepared at the request of the National Resources Board. These reports were intended to be used in the



formation of a National Land Utilization Policy. Studies concerning forest resources were prepared and later incorporated into a survey of southern forests. The staff of the commission undertook surveys and studies of water resources in the state, along with studies of parks and recreation facilities. These items also became parts of national reports. Significantly, the parks and recreation report led to the formation of the Tennessee State Park System.

Other early state-wide planning activities included development of a tree planting program, in coordination with the Highway Department. Two early public works studies included a summary of county works projects and a six-year program for county public improvements. Another significant study prepared by the State Planning Commission included a report on Gatlinburg and the Great Smoky Mountain Park area.⁷

PROGRAM REORGANIZATIONS

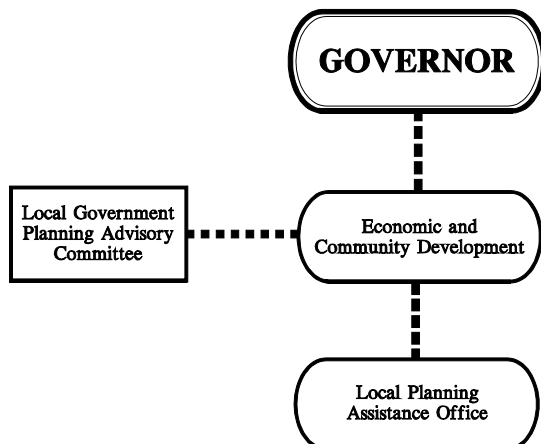
Since the establishment of the Tennessee State Planning Commission in 1935, there have been three reorganizations that resulted in significant impacts on the program. Following the end of World War II, the Tennessee State Planning Commission staff was divided into three major divisions: State Planning, Research, and Local Planning. These divisions were formalized following the war to help the state cope with changes in the national economy and federal policy.

In the state's Reorganization Act of 1959, many of the various commissions, boards, agencies and committees created in the 1930's and 1940's were abolished, consolidated, or relocated into departmental functions. The Tennessee State Planning Commission, which previously answered to the Governor, was placed in the Department of Finance and Administration, but remained the legal and official planning agency for the State of Tennessee.⁸

In the Reorganization Act of 1972, the planning agency underwent another change. The Tennessee State Planning Commission was abolished, and its planning staff moved to the Executive Department as the Tennessee State Planning Office. As a replacement for the abolished citizen advisory function of the Tennessee State Planning Commission, the Local Government Planning Advisory Committee (LGPAC) was formed. This committee is composed of seven local government officials appointed by the governor. Members serve no more than two four-year terms, and rotate off the Committee if separated from local government.

The duties of the Local Government Planning Advisory Committee, as established in 1972, included: (1) advice to the governor concerning local government conditions and inclusion of those needs in the state's general plan; (2) advice to the governor on the administration of local planning assistance, including the employment of professionally qualified planning personnel to provide services to local government; and (3) exercise of powers over regional planning commissions, including the creation of planning regions and appointment of members.⁹ An amendment to the legislation in 1996 removed the appointment powers of the

Local Government Planning Advisory Committee for regional planning commissions comprised of a single county. In those counties appointment powers are now exercised by county executives. Regional Planning Commissions that cover more than one local governmental unit, such as a joint city-county planning commission, continue to be appointed by the LGPAC.



In yet another reorganization in 1983, the State Planning and Local Planning Divisions of the Tennessee State Planning Office were separated. The State Planning Division

together with the Research section remained in the Executive Department. The Local Planning Division and the Local Government Planning Advisory Committee were transferred to the Department of Economic and Community Development.

The transfer of the Local Planning Assistance Office and the Local Government Planning Advisory Committee to the Department of Economic and Community Development was accomplished by legislative action. The duties of the planning office were basically unchanged, however, there were slight changes in the duties of the Advisory Committee. Under present legislation the Committee advises the commissioner of the department concerning local planning matters.¹⁰

The State Planning Division

The State Planning Division was created by the Tennessee State Planning Commission in 1945, primarily to continue performing the functions that were carried out by the state planning commission staff prior to World War II. These functions included performing basic research and preparation of reports and studies on public works planning, post war development programs, and water, recreation, and natural resources. The division was also charged with preparing a general or master plan for Tennessee's future development.

In 1959, an amendment to the Federal Housing Act of 1954, brought about a significant change in the work of the State Planning Division. This amendment recognized state planning agencies for the purpose of carrying out comprehensive state planning. Following the enactment of this legislation, the Division increased its planning functions significantly. This resulted in the preparation of a series of reports interpreting the characteristics, problems, and opportunities in regard to the state's population and economy.¹¹ The Research Division was also established to assist the two planning divisions in carrying out their functions, and to provide research and technical data to other units in state government.

In 1995, the State Planning Division was abolished. The legislation that abolished the Division also repealed all the enabling statutes that authorized planning activities on a statewide basis and deleted any reference to state planning oversight by the Local Government Planning Advisory Committee. State Planning, as a function of state government, ceased to exist. The Tennessee State Planning Library, previously a component of the Research Section, was transferred, as a separate identifiable collection, to the State Library and Archives.

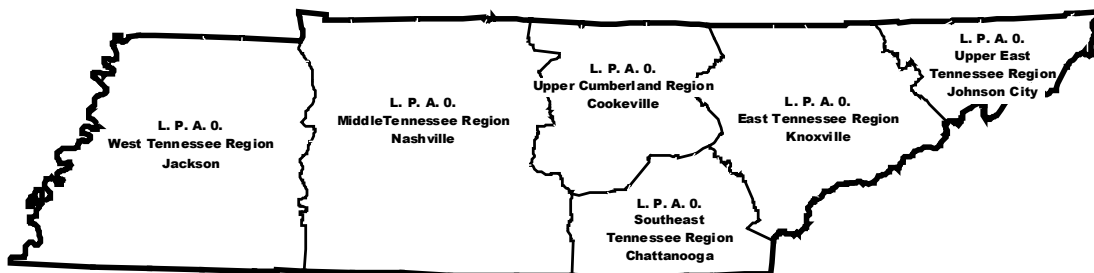
The Local Planning Assistance Office

From the beginning the Tennessee enabling legislation gave local governments permission to institute local planning programs. In order to assist local governments to prepare and implement planning programs, the legislation currently provides that governments may request and receive professional assistance by the staff of the Local Planning Assistance Office.

The Local Planning Division was established soon after the Tennessee State Planning Commission came into existence in 1935. Originally, all technical staff assistance to local governments was provided from the office of the Commission in Nashville. The need for decentralization of local planning assistance soon became apparent as local governments across the entire state began to request technical help.

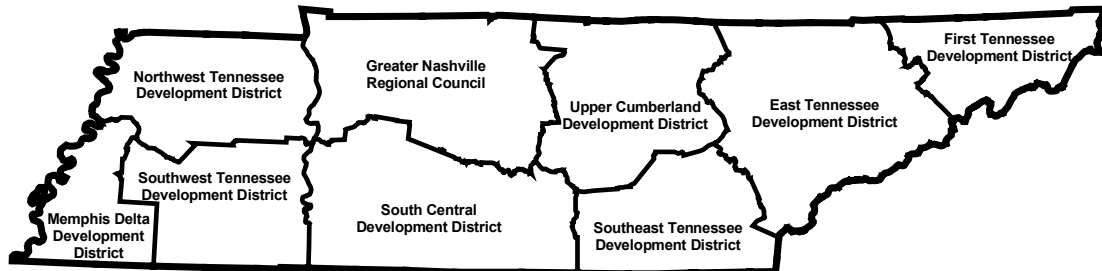
In 1941, with encouragement from the Tennessee Valley Authority and funding by the Federal Housing Authority, an experimental local planning assistance program was initiated in the Tri-Cities area of Upper East Tennessee. The success of this experiment led to the establishment of the first permanent field office of the Local Planning Division in Johnson City in 1943.

In 1948 the operations of a joint TVA/TSPC field office, located in Knoxville, were assumed by the Tennessee State Planning Commission and staffed in the same manner as the Upper East Tennessee Office. The Knoxville operation was designated as the East Tennessee Office. As demands for technical assistance continued to grow, the commission established additional field offices. In 1944, a Middle Tennessee Office was established in Nashville. Soon after, in 1945, a West Tennessee Office was placed in Jackson. Twelve years later, in 1957, a Southeast Office was established in Chattanooga, and in 1973, a sixth regional office was located in Cookeville.



Increased interest in planning by cities and counties in Tennessee brought about the growth of the Local Planning Assistance Office. Local governments receiving assistance from Local Planning have increased significantly since 1935. In 1945, over 50 local governments were contracting for local planning assistance. By 1957, almost one-hundred were receiving assistance; and, in 1973, the Local Planning Office was contracting with 126 cities and 38 counties in the state. In 2000, 217 cities and counties were receiving planning assistance under contractual agreements.¹² In addition to the communities served by the Local Planning Office, 44 communities in Tennessee operate with their own planning staff.¹³ These include the metropolitan areas of Knoxville, Memphis, Nashville, Chattanooga and Johnson City, along with several medium sized cities. Most of these communities were originally served by the Local Planning Office.

DEVELOPMENT DISTRICTS



The 1960's saw the federal government, through its "Great Society" programs, turn attention to regional economic development and regional planning. States were encouraged to form economic development regions to solve chronic problems. In Tennessee, this was accomplished by the enactment of legislation requiring the Tennessee State Planning Commission to create development districts for the purpose of carrying out programs providing for coordinated, efficient, and orderly economic growth of the state. In creating these new districts, the Act specifically noted that local governments would maintain the responsibility for carrying out all plans for physical, economic and resource development.¹⁴

The membership of development districts is composed primarily of elected and appointed officials of local governments in the region. According to state statutes, a development district has broad general powers to: (1) receive and expend funds, (2) employ staff and consultants, (3) contract with local, state, and federal agencies, and (4) prepare broad plans for economic development of the district. Similarly, the district organizations have limitations: all plans must be advisory; no authority is granted to enact zoning and subdivision standards; no authority is granted to supersede or interfere with the planning and development authority of cities and counties; and there is no power of eminent domain or regulation of agricultural or other use of land.¹⁵ By 1975 a total of nine districts had been created.

Development districts are financed by assessments on member local governments, state matching contributions, and federal grants. These organizations primarily focus on regional issues and generally tailor their programs to accommodate federal and state funding requirements.¹⁶

FOOTNOTES

¹Lee Greene and Robert Avery, *Government in Tennessee* (2nd ed.; Knoxville: The University of Tennessee Press, 1966), p. 331.

²*Ibid.*, p. 332.

³Harold V. Miller, "State Sponsored Planning Activities-The Tennessee Experience" (Unpublished paper, Tennessee State Planning Commission, 1957).

⁴Greene and Avery, *op. cit.*, p. 337.

⁵Tennessee State Planning Commission, *Tennessee Planning Legislation with Commentary, A Reprint from the Tennessee Code*, Publication No. 368 (Nashville: Tennessee State Planning Commission, September, 1970), Sections 13-101 through 13-114, pp. 1-7.

⁶*Ibid.*, p. 5.

⁷Tennessee State Planning Commission, "The Tennessee State Planning Commission - Its Purposes, Functions and Activities," *The Tennessee Planner*, Vol. 7, No. 3 (1946), pp. 69-89.

⁸Tennessee State Planning Commission, "The Tennessee State Planning Commission - Its Purposes, Functions and Activities," *The Tennessee Planner*, Vol. 22, No. 1 (1962), p. 2.

⁹State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1973), Vol. 3A, Section 13-101.

¹⁰State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1991), Vol. 2A, Sections 4-3-726 and 4-3-727, pp. 49-50.

¹¹Tennessee State Planning Commission, "Presenting the Tennessee State Planning Commission," *The Tennessee Planner*, Vol. 27, No. 4 (1968), pp. 115-119.

¹²Status of Planning and Land Use Controls.

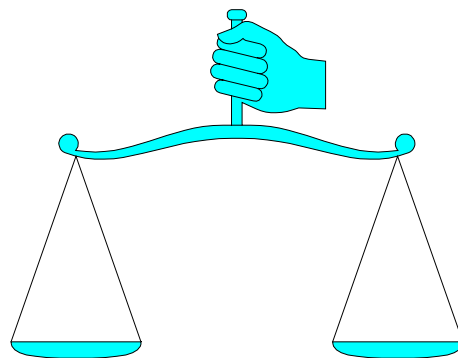
¹³*Ibid.*, p. 9.

¹⁴State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1987), Vol. 3A, Sections 13-14-102 and 13-14-103, pp. 551-552.

¹⁵State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1987), Vol. 3A, Section 13-14-104 and Sections 13-14-106 and 13-14-107, pp. 552-554.

¹⁶State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1987), Vol. 3A, Section 13-14-111, pp. 555-556.

CHAPTER II



Legal Basis for Planning

I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion by education.

Thomas Jefferson

CHAPTER II

LEGAL BASIS FOR PLANNING

Local planning and land use regulation rest on powers granted to cities and counties by the state constitution, but state legislation shapes the manner in which these powers are exercised. Basically, cities and counties draw upon two broad categories of legal powers in their planning programs: corporate powers and police powers. Corporate power is the authority to collect money through bonds, taxes, fees, and assessments, and to spend it to provide services and facilities, such as streets, water, sewage disposal facilities, parks, recreation, and the like.

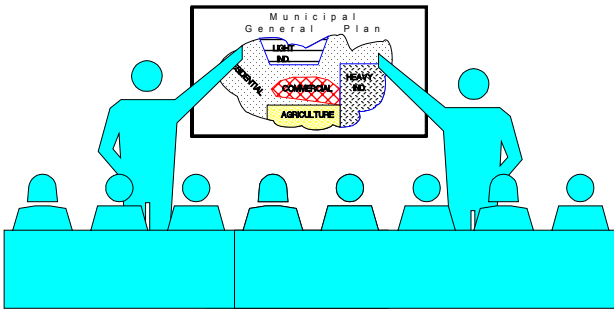
Police power, reserved to the states by the Federal Constitution and delegated to cities and counties by the state, is the authority to regulate a citizen's behavior, including the use of private property, to promote the health, safety, welfare, and morals of the public. The police power is elastic, evolving to accommodate changing community values, but its use is constrained by constitutional principles of equal protection and due process, including unlawful taking or damaging of property. Land use planning, zoning, subdivision regulation, and building regulation are all exercises of the police power.

The powers of municipal and regional planning commissions authorized by Title 13 of the **Tennessee Code** are discussed in the following sections. A recent addition to the fabric of planning legislation, the Growth Boundary Law, enacted as Public Chapter 1101 is also included. The new law is codified at TCA Title 6, Chapter 58.

POWERS OF MUNICIPAL PLANNING COMMISSION

Tennessee does not have mandatory planning and land use controls for municipalities; however, municipalities which choose to exercise planning, subdivision regulation and zoning must comply with the grant of power.

Prepare and Adopt a General Plan



Section 13-4-201, **Tennessee Code**, states that it shall be the function and duty of the commission to make and adopt a general plan for the physical development of the municipality including any area outside its boundaries which bears a relationship to the planning of the municipality. The legislation further stipulates the subjects that may be included in such a plan. The legislation is very broad with respect to the reach of a planning commission to do its job.

The plan, as described in the legislation, is to show the planning commission's recommendations for the physical development of the area. The plan "... may include, among other things, the general location, character and extent of streets, bridges, viaducts, parks, parkways, waterways, waterfronts, playgrounds, airports, and other public ways, grounds, places, and spaces, the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication, and other purposes;...". The legislation continues a general listing of other items that may be included, as well. In short, it may be said that the general plan may cover any service which the municipality might provide, as well as guidance for many private activities. While the plan is not a legal instrument, the municipality does have ample power to implement it through a variety of means.

Make Advisory Reports and Recommendations

Section 13-4-103, **Tennessee Code**, gives the local planning commission the power to make advisory reports and recommendations that relate to the plan to any public official or agency, to utility districts, and to civic, educational, or professional organizations. In addition, all such public officials are required to furnish the commission with any information that may be needed for its work. There is also a statement that the commission shall have such powers as may be necessary to enable it to perform its purposes and promote municipal planning.

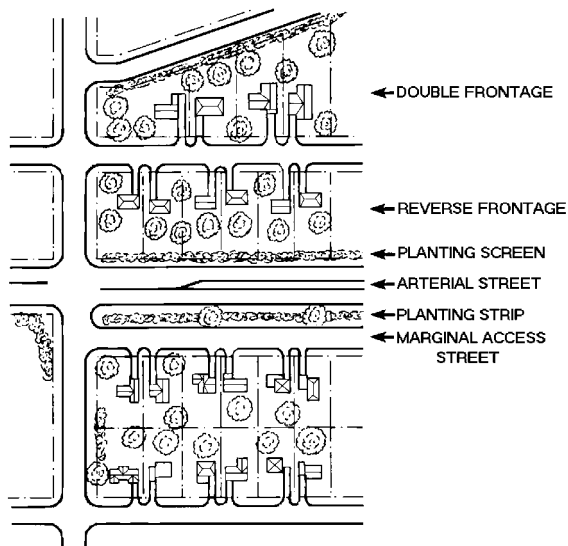
These powers are advisory only. However, it does mean that the commission may advise any body, public or private, whether a project or activity is in agreement with the general plan and use its powers of persuasion or information dissemination to affect the course of action. The commission may also request and obtain information from such agencies as a school board, utility district, power board, industrial development board, housing authority, and others, to determine whether their activities are in compliance with the plan.

Mandatory Referral

This broad power to review and comment on any public project is sometimes referred to as mandatory referral. Section 13-4-104, **Tennessee Code**, states unequivocally that the planning commission shall be consulted prior to the construction or authorization of any project, and this includes private utilities. The law provides that all state, county, and local agencies and officials having jurisdiction over such projects must comply with the referral requirement.

The purpose of such referral is to assure that public projects and their locations are in compliance with the general plan, and further, to assure coordination between various agencies at different levels of government. Compliance with the planning commission's recommendations is not mandatory since the legislative or other responsible authority (for example, a school board) can override the commission. However, it does guarantee that the commission has had an opportunity to comment. Failure to comply with this provision could, in case of a court challenge, delay a project or even jeopardize it all together.

Subdivision Regulations and Site Plan Review



The subdivision of land is the first step in the continuing process of shaping the future land use pattern and adding to the housing stock of a growing community. Prior to the regulation of new subdivisions through planning commission authority, many new subdivisions turned out to be liabilities for the community as a whole and for individual home buyers. Subdivisions were created without adequate water and sewer, in areas subject to frequent flooding, and without streets. Many times land would be subdivided and homes built and sold, and then the city or county would have to construct all improvements.

New lots and streets alter or intensify traffic on existing streets, they increase storm water drainage, they create more demands for water supply or sewage treatment capacity, and they will enlarge the need for the whole spectrum of public services including schools. Subdivisions change the face of a community and those changes are often permanent.

The **Tennessee Code** gives local government the necessary authority to adopt and enforce subdivision regulations. The law defines what constitutes a subdivision; provides that no plat may be recorded until it is approved by the planning commission; prohibits a county register from recording a plat until it is duly approved; provides procedures for the adoption of regulations and submission of plats; and provides penalties for transfer or sale of lots in unapproved subdivisions. Although residential subdivision constitutes the bulk of planning commission activity, the definitions encompass all divisions of property including commercial and industrial subdivisions. Planning commissions can and should include standards and requirements for all types of subdivisions regardless of land use classification.

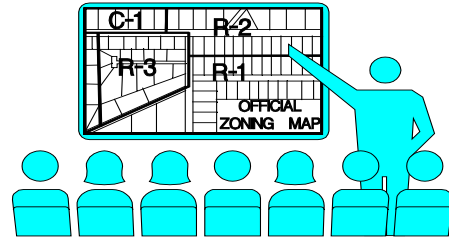
The **Tennessee Code** is rather liberal in its grant of power to a planning commission, and the community may, if it so chooses, adopt stringent controls. Section 13-4-303 provides that in exercising its powers the planning commission shall adopt regulations, and those regulations may provide for the harmonious development of the municipality and environs, for the coordination of streets with existing or planned streets or with the plan of the area, for adequate open spaces, for traffic, recreation, light, and air, and "...for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, and prosperity." This last part appears to give a planning commission ample authority to consider the spatial relationships and timing of new developments, factors that few commissions have addressed in the past.

Section 13-4-307, **Tennessee Code**, deals with the acceptance of unapproved streets and reinforces the mandatory referral provisions mentioned earlier. This section generally states that no municipality or public official shall accept, layout, open, improve, pave, or light any street without planning commission review. No water or sewer mains may be laid in any street that is not public or shown on an approved subdivision plat. It is further provided that the chief legislative body may open, accept, or pave streets but such matter shall first be submitted to the planning commission. If disapproved by the commission, the legislative body may override the commission by a majority vote of the entire membership. Here again, the planning commission's recommendations may be overridden; however, the law does give the commission the opportunity for prior review.

Site plan review is a planning commission power only through the enforcement of a zoning ordinance. Once the zoning ordinance is adopted, the planning commission may be given the prerogative to review and approve or disapprove a site plan of any proposed use on any lot prior to the issuance of a building permit. The enforcement of these provisions can result in the improved location, layout, and design of buildings on individual lots.

Prepare and Recommend a Zoning Ordinance and Map

The preparation of a zoning ordinance and map, as well as subsequent amendments thereto, are but two of the powers of a planning commission. Zoning is often the most visible and controversial aspect of any planning commission's business. This is because it deals with how an individual may use private property.



The subject of zoning in general is complex and requires more explanation than is the purpose of this section. There are many multi-volume legal treatises available, and there is an abundance of case law on zoning issues. The intent of this section simply is to summarize the role of the planning commission in the zoning process.

Section 13-7-201, **Tennessee Code**, empowers the chief legislative body of a municipality to adopt a zoning ordinance and also specifies the broad areas that may be regulated by zoning. However, Section 13-7-202 specifies that before the legislative body may exercise these powers, the planning commission must make and certify to the legislative body a zoning plan that includes the full text of a zoning ordinance and zoning maps.

After a public hearing, which has been given proper public notice, the chief legislative body may enact the zoning ordinance. Section 13-7-203 provides that no change in or departure from the text or maps as certified by the planning commission shall be made by the legislative body unless such change is submitted back to the planning commission for comment. Here again, the legislative body may override the planning commission, but the commission gets its opportunity to review. Some ordinances have been successfully challenged in court for failure to comply with this section.

After the ordinance is adopted, the planning commission generally has no role in its administration. This is the responsibility of the staff of the municipality.

Review of Amendments to the Zoning Ordinance or Map

The zoning ordinance and map may from time to time be amended as the need arises. Because such action changes a city ordinance, it must be passed by the chief legislative body. Before the amendment can be enacted the legislative body must hold a public hearing. Section 13-7-204 also provides that the planning commission must first review the amendment.

It is this one aspect of the planning commission's power that consumes so much of the commission's time. In many communities the commission may spend 80 to 90 percent of the meeting discussing zoning amendments. As noted, however, this is only one function of the commission, and while it is an important aspect of the zoning process, it should not be

allowed to dominate all meetings. An inordinate amount of time spent on zoning issues may result in other important planning functions being neglected.

One way to simplify the procedure and speed up discussion of amendments is to correlate all amendments with an adopted general plan, with urban growth boundaries, planned growth areas or rural designations delineated in the community's Growth Boundary Plan and to follow procedures spelled out in the law or the commission's bylaws. Generally speaking, a proposed amendment should be able to meet several tests before it is approved by the planning commission.

- Is the proposed change in agreement with the general plan?
- Is the proposed change consistent with the growth area requirements of the adopted growth boundary plan?
- Does the change violate the legal purposes of zoning?
- Has it been determined that there will be no adverse impact upon adjoining property or that any adverse impact can be justified by the overwhelming public good or welfare?
- Has it been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public?
- Has it been determined that public services and facilities will not be adversely affected?

If all of these tests are met, but the proposed change fails to agree with the general plan, then the commission should examine conditions and changes that have occurred in the area since the original plan was adopted. The commission may find that many changes in physical conditions, infrastructure, or policy have occurred that indicate the plan may need altering. In this event, the general plan should be amended and subsequently, the zoning map. The result of following such a procedure for zoning amendments is that all the necessary questions are asked and sufficient information is generated to allow the planning commission to make an informed recommendation. This is the purpose of planning commission review of amendments, and the commission should not get involved in just the personal interests of the applicant or how the neighbors feel about it. Such a procedure is also much more able to withstand any legal challenge.

POWERS OF A REGIONAL PLANNING COMMISSION

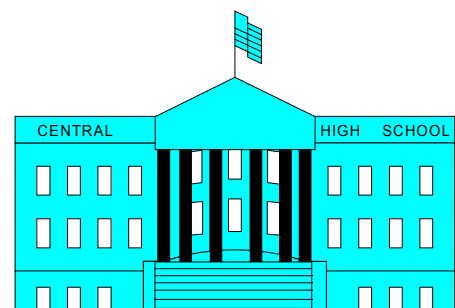
Regional planning commissions have powers that are similar to municipal commissions but with certain differences that are related to the regional nature of the commission. In Tennessee a regional planning commission may be either a county planning commission, a community planning commission, or a municipal planning commission which has been designated as regional for a specified planning region outside of, but contiguous with, the corporate boundaries. Within the planning region, regional planning powers apply as opposed to municipal powers.

Promote Cooperation and Coordination

Section 13-3-104, **Tennessee Code**, seems to contemplate that a regional planning commission will be a county planning commission and gives the commission the power to promote cooperation among city governments as well as county officials. This power serves the public interest particularly well where two or more municipalities have plans that are in conflict with each other's and with the county plans. For example, suppose both communities have plans that call for a new high school, but enrollment figures and population projections support only one such school. Similarly, what happens when each community has plans for new roads but there is no way to blend them into a total county system. The regional planning commission is a logical and necessary body for resolving such issues, based on a regional approach, and for providing coordination and consistency between municipal and county plans.

Review Public Improvements

Section 13-3-104 also provides that a regional planning commission may advise both the county and any municipal legislative body with respect to the formulation of public improvement programs and the means of financing such programs. This gives the planning commission the authority to comment on proposed capital improvements regarding whether the project is feasible, is in agreement with long-range plans, or perhaps duplicates other services. Here again, such reports are advisory, not mandatory.



General Regional Plan

Section 13-3-301, **Tennessee Code**, gives regional planning commissions the power to plan much the same as the legislation for municipal planning commissions does. However, this section goes even further to authorize the planning commission to include in the plan the "general character, location and extent of ... town sites or housing developments; the location and extent of forests, agricultural areas, and open development areas...; a land classification and utilization program." Additionally, the plan may include a zoning plan which, among other considerations, may cover "the distribution of population."

The purpose of the general plan is amplified by Section 13-3-302. In addition to the usual health, safety, and welfare purposes of the police power, this section covers efficiency and economy in the process of development and the reduction of waste of financial and human resources, which result from excessive congestion or excessive scattering of the population.

Although the Comprehensive Growth Plan Law, discussed later in this handbook, cites "minimizing urban sprawl" as one of its purposes, there are no specific cross references to the general plan sections of Title 13, nor is there any role for the planning commission. The so called "conformity clause" of the Growth Boundary Act does require, however, that all land use decisions be in conformity with the Urban Growth Plan adopted for the jurisdiction. How the new legislation fits within the context of the duties and powers of the planning commission to promote comprehensive planning is open to each planning commission to interpret for itself. Certainly the planning commission must recognize the intent of the Growth Boundary Law with respect to densities, land use and natural resource management, and public service provisions that accompany the designations of urban growth areas, planned growth areas and rural areas. Considering the exclusive powers of the planning commission to adopt and administer subdivision regulations, a review of the regulations relative to growth boundary designations is imperative.

In summary, it can be said that a regional planning commission has broad powers to plan for the total region. It may plan, regulate, and time the development of such things as utilities and housing areas. The commission may prevent urban sprawl and help preserve agricultural and open space areas. It may plan for schools and roads. While it is well accepted that the statutes at Title 13 are still enabling, the necessity to accept the growth management responsibilities, stated and inferred, by the Growth Management Act is clearly a duty that can not be ignored. Planning at all levels of government is not mandatory, but it should certainly be considered obligatory.

Enforcement of plans by a county is another question. Due to the nature of county government in Tennessee, enforcement and implementation of plans is not as easy as in a municipality. The strict enforcement power is generally limited to subdivision and zoning controls where legal action may be instituted as an enforcement measure.

Subdivision Regulations and Site Plan Review

The discussion on subdivision regulations presented earlier under municipal planning powers applies as well to regional planning powers. The grant of power from the **Tennessee Code** is under a different section but it is very similar to the municipal section.

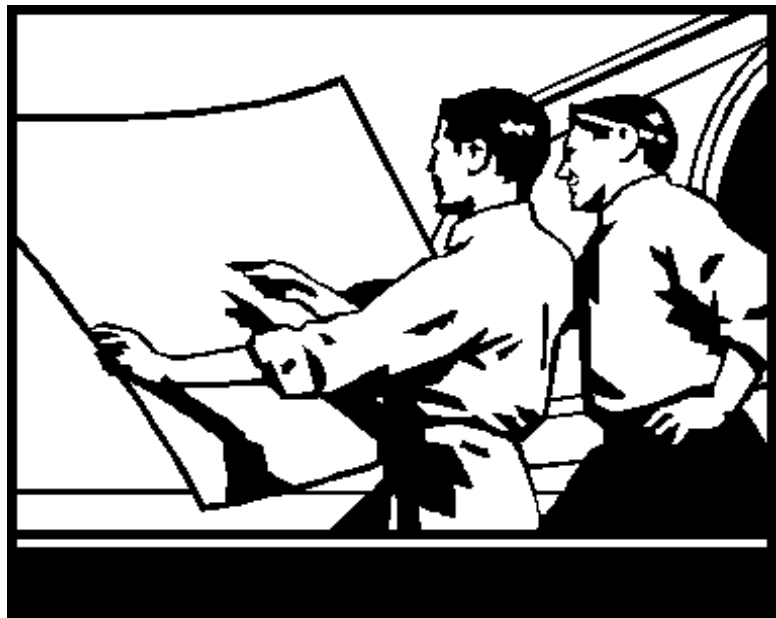
There is one important difference. Section 13-3-403, **Tennessee Code**, in addition to basic similarities with the municipal section states that subdivision regulations may provide for "... the avoidance of such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services." This section clearly gives a regional planning commission the power to develop growth management strategies that would time the development of land to the availability of public services and facilities.

A planning commission may not exercise this power in an arbitrary manner. Such decisions must be founded upon definite plans, policies, and programs to substantiate them and ultimately provide the necessary services. However, it does give a regional commission adequate authority to regulate the time and the location of land development.

Site plan review powers are the same as described in the section of this report regarding municipal powers and are conveyed through the power to zone.

Mandatory Referral

The power granted by Section 13-3-406, **Tennessee Code**, is the regional planning commission's claim to mandatory referral. Here the review power of the commission covers only county roads and highways and utilities in county roads, and therefore, is not as broad as the municipal power. The planning commission must be given advance notification of any road project and must review it prior to a road becoming a public road. The chief legislative body of the county may accept, layout, or locate a road but not before the proposal is submitted to the planning commission for a recommendation. In the case of a state highway, the Commissioner of the Tennessee Department of Transportation must submit the project to the



planning commission for a recommendation. In the case of a state highway, the Commissioner of the Tennessee Department of Transportation must submit the project to the

planning commission for review. The Commissioner of the Department of Transportation has the power to overrule any disapproval by the planning commission.

Prepare and Certify a Zoning Resolution and Map

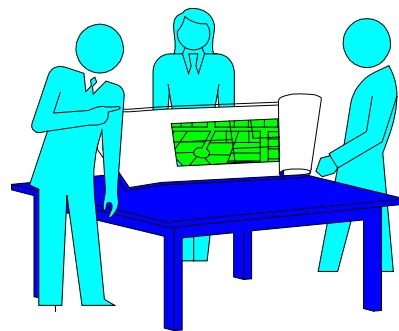
The chief legislative body of the county is empowered by Section 13-7-101 to adopt and enforce county zoning. As in municipalities, the planning commission must first prepare and certify the zoning plan, including text and maps, to the legislative body. Such legislative body can make no change in the zoning plan without first submitting the change to the planning commission for a recommendation.

A major difference from municipal zoning legislation is in Section 13-7-104 which requires that the caption and summary of any zoning resolution must be published in a newspaper of general circulation prior to adoption.

Review of Amendments to the Zoning Resolution or Map

The chief legislative body is authorized to amend the text or map by Section 13-7-105, but the planning commission must first review the amendment and make a recommendation on it. Before the amendment can be adopted, it must be published in a newspaper of general circulation, as noted in the section above.

CHAPTER III



The Comprehensive Planning Process

As an expression of desirable physical development, the general plan is an affirmation of goals. It is not a prediction, although its policies and proposals, which express its physical-development goals, to be reasonable, should be within the range of what is judged to be possible. The general plan is a statement of willful intention.

T. J. Kent, Jr. from The Urban General Plan

CHAPTER III

THE COMPREHENSIVE PLANNING PROCESS

The planning commission in Tennessee is the local agency charged with the responsibility of adopting a general or comprehensive plan for the physical development of a municipality or planning region. The preparation of a comprehensive plan is an integral and inseparable part of the "comprehensive planning process." This is the part of the planning process where goals, objectives and plans of the community are developed and adopted for use in guiding future decisions of the governmental body and other decision makers.

This chapter discusses a definition of planning and why a community should plan. The final section reviews the comprehensive plan, its content and purpose.

WHAT IS PLANNING?

One author has described planning as "action oriented thought."¹ Another has called it "rationally calculated action to achieve a goal."² In its simplest terms planning consists of finding out where you are, where you want to go, and how to get there. Community planning gives decision makers a rational basis for making their decisions based on what results are desired, what future conditions are likely to be, and how various independent actions can relate to each other and be mutually beneficial. In any community many individual decisions are made every year and they are made by many different people: a homebuilder, the city council or county commissioners, the mayor, a store owner, the department of transportation, and many others. Most of these decisions will be made whether or not there is a community planning program. The difference is that with a good community planning program, there is a greater likelihood that these diverse decisions will be made in a more sensible relationship to one another. In addition, a good planning program can make things happen that otherwise would not have happened. The planning program serves as a catalyst to bring people together and to provide a more orderly and hospitable environment in which development decisions can take place.³

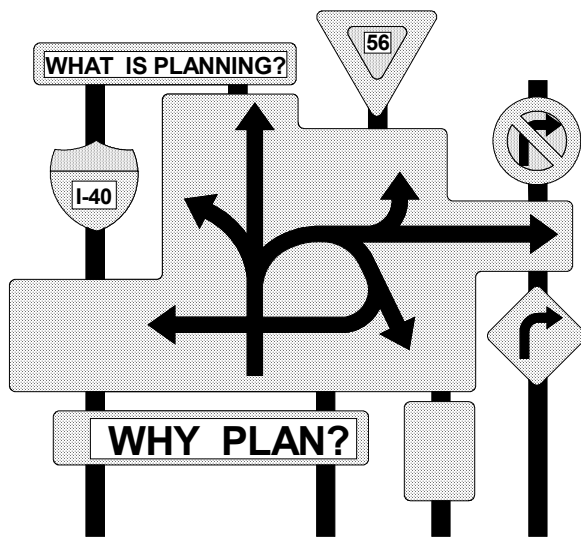
Planning means different things to different people, but here a rather general definition is offered that will apply to most any problem or situation that may be encountered by local governments. Planning is a continuous approach to problem solving, a process for making informed decisions about the future. Every community plans, although the lack of a formalized plan and process means that planning is done on a day-to-day, crisis-to-crisis basis. A better approach is to try to anticipate the consequences of possible courses of action and select what appears to be the best course based upon a locally adopted method of problem analysis and solution selection.

Formal planning is usually characterized by such activities as:

- Identifying problems or issues;
- Analyzing them;
- Formulating goals;
- Developing and evaluating alternative courses of action;
- Selecting a preferred alternative;
- Implementing the preferred alternative; and,
- Monitoring implementation and making adjustments based upon results and/or changing policies.

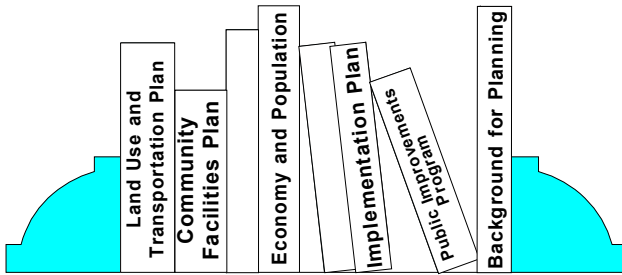
In practice, these activities are rarely distinct, sequential steps. They often overlap in a cyclical process in which experience provides the impetus for continuous course corrections. Like budgeting, governmental planning is also a political process for allocating scarce resources among competing demands. In summary, the purpose of planning is not to prepare plans but to induce intelligent, informed decisions.

WHY PLAN?



Before discussing the comprehensive plan, one question should be addressed: Why plan? Why should a city or county spend money for a planning program? The impetus for appointing or revitalizing a planning commission and starting a continuing planning program may come from a variety of circumstances. Growth in an area always raises issues that only a planning program can address. What about public services? Are the water lines adequate? Who builds the streets and to what standard? How should commercial services be provided? Should prime industrial land be reserved? What effect will it have on the local tax rate? All of these questions and more arise in a growing community.

As each new development occurs, whether it be a five lot subdivision or a major shopping center, the community of the future takes shape. The need for services will be determined by the population density, the use to which land is put, and the physical arrangement of the developed area. This also has a very real and significant impact upon the local property tax. Attractive, carefully developed, and orderly communities have sound economic foundations. Haphazard, disorganized, and unattractive developments can destroy the very essence of functional and efficient community life.



COMPREHENSIVE PLAN

The characteristics of the comprehensive plan have been described by many writers in a variety of books, journals, reports and other publications. During a review of the various commentaries, a particularly well written treatment of the subject was found which parallels the statutory mandates in Tennessee. Therefore, a section on the comprehensive plan has been taken directly from the Alaska Planning Commission Handbook, prepared by the Alaska Department of Community and Regional Affairs, and has been reproduced in the paragraphs that follow.⁴

The fundamental purpose of planning is to create predictability in the future through decisions and courses of action that are taken today. A community that undertakes planning is attempting to establish a degree of predictability and certainty over the patterns and costs of community growth. It is change, and the problems and issues which may be associated with it, that provides both focus and motivation for community planning. Planning creates a context for decision-making that represents community values and attitudes and will guide community development and design. It is a dynamic, ongoing process, but it is possible to organize it into a series of discrete or separate steps. The culmination of this process is the development of a plan that is a statement of the community's policies and objectives contained within a general blueprint of the future.

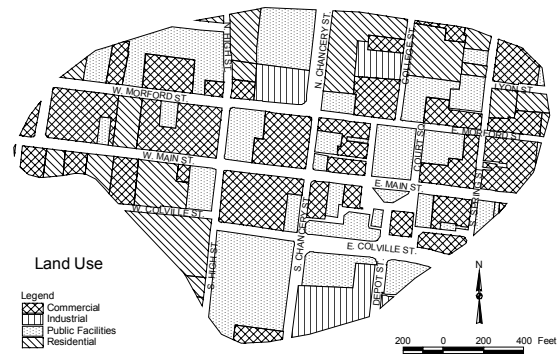
Six steps in the planning process are:

- Identification of Issues and Problems (the reasons for undertaking planning; establishing basic directions).
- Inventory of Community Conditions and Problems (a description and analysis of the community's environmental, social, and economic characteristics).
- Formulation of Community Goals and Objectives (the major themes that characterize the community's direction and purpose and the means of realizing them).
- Formulation of Policies and Plan (the adoption of specific statements to guide community decision-making).

- Implementation of Plan (the adoption of land-use regulations; capital improvements; day-to-day decisions of the staff, commission, and elected officials).
- Plan Review (keeping the plan up-to-date and useful through scheduled review and revision).

The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public for the development of the community. It usually contains the following sections:

1. Introduction.
2. Background for Planning.
3. Economy and Population.
4. Land Use and Transportation Plan.
5. Community Facilities Plan.
6. Public Improvements Program.
7. Implementation Plan.



The comprehensive plan, or general plan, can serve several purposes:

1. The plan fulfills a legal obligation since zoning and land use controls must be based on an adopted comprehensive plan.
2. The plan represents the community's vision of the future. That is, the plan contains long-range goals, objectives, and policies that describe how, where, and in what manner the community's physical development will occur. The plan also links together the community's physical development with considerations about social needs and economic development.
3. The plan is a guide for decision-making and a blueprint for growth in the community. Elected officials and planning commissioners will rely on and use a thoughtfully prepared plan when they make decisions that affect and shape the community's future.
4. The plan provides an opportunity to place under a single cover, policies for a wide range of community activities such as land use, utilities, recreation, transportation, and so on. This coordinating function of the plan can reduce the opportunity for contradictory policies from different departments of municipal or county government.

COMPREHENSIVE PLANNING AND GROWTH MANAGEMENT PLANNING-- SEEKING A RECONCILIATION

Growth management planning was introduced and became a permanent part of the fabric of planning in Tennessee when in May, 1998 Public Chapter 1101 became law. The result of yearly battles in the Legislature over the authority of cities to annex by their own initiative, PC 1101 was enacted to require local agreement over future annexation areas and to clarify the tax consequences of cities annexing commercial properties. The process for reaching these agreements is described in detail and is characterized by common planning themes and objectives. Codified as Title 6, Chapter 58 of the TCA and titled "Comprehensive Growth Plan", it outlines a process for defining three basic districts in each county of the State. Cities propose future "urban growth boundaries." Counties propose "planned growth areas and rural areas." A county coordinating committee is brought into existence by the law and stays in business long enough to adopt a comprehensive growth plan and submit it to the Local Government Planning Advisory Committee for approval. It comes back into existence when an emergency plan amendment is needed and after the third year of a plan's duration if a change is warranted.

TCA 6-58-102 states: "...the general assembly intends to establish a comprehensive growth policy for this state that:

1. Eliminates annexation or incorporation out of fear;
2. Establishes incentives to annex or incorporate where appropriate;
3. More closely matches the timing of development and the provision of public services;
4. Stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and
5. Minimizes urban sprawl."

Annexation issues obviously constitute the core of this policy, and the result for municipalities is a growth boundary within which annexation is an anticipated and acceptable activity over a twenty-year period. The statutory characterizations of an "urban growth boundary" declare that these are areas in which the municipality is expected to "efficiently and effectively provide urban services; and ...to manage and control urban expansion." Clearly an urban growth boundary is a municipal planning region requiring implementation tools and processes associated closest with zoning and subdivision regulation. "Timing of development and provision of public services" is synonymous with public infrastructure planning. Without the tools of plan implementation, the likelihood that cities and counties will "minimize urban sprawl" is merely wishful thinking.

While the process of reaching agreement on growth boundaries, planned growth areas and rural districts is well defined in the law, the issues of planning and plan implementation, through the zoning and subdivision processes defined in Title 13, are not well reconciled.

FOOTNOTES

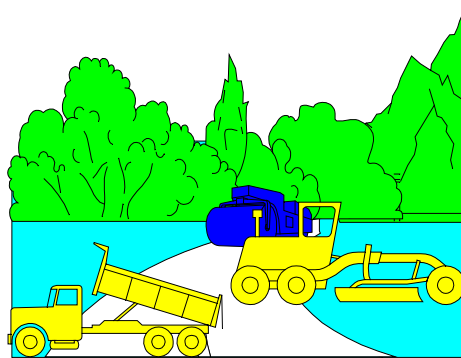
¹Y. Dror, a paper entitled, "Dimensions of Planning."

²Robert A. Dahl and Charles E. Lindbloom, *Politics, Economics and Welfare* (New York: Harper and Row Publishers, 1963), pp. 3-126.

³Thomas H. Roberts, *Your Role as a City or County Planning Commissioner* (Reprint; Atlanta: Roberts and Eichler, Associates, Inc.), p. 3.

⁴Peter Freer et al., *Alaska Planning Commission Handbook* (Juneau: State of Alaska, Department of Community and Regional Affairs, 1988), pp. 18-20.

CHAPTER IV



Plan Implementation

As basic as the planning for certain designed population capacities is to the whole notion of control in the public interest, such measures must nevertheless be reinforced by regulatory devices controlling the intensity of land use and the occupancy of structures in order to insure that the designed capacity of the land is not exceeded. In this connection, zoning and subdivision control are fundamental effectuation devices.

F. Stuart Chapin, Jr. from Urban Land Use Planning

CHAPTER IV

PLAN IMPLEMENTATION

As noted previously, planning is a continuous process. Implementation is an important and interdependent part of the same continuous process-- the "how to get there" part of planning. Without implementation, planning becomes an exercise of wishful thinking, good intentions and the development of seldom used or ignored plans, studies and reports.

Implementation is the reality base of planning. It is putting into action the goals, objectives, policies and recommendations of plans, studies and reports. With this in mind, planning documents should be prepared and substantiated by factual knowledge of the political, economic, physical and social realities of the community. In fact, the real success of a planning program can be measured in terms of the implementation of planning documents and the use of those documents by the community in making decisions.

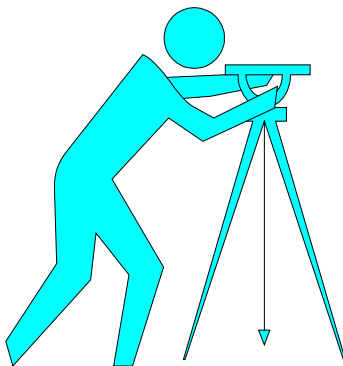
Implementation of planning documents is normally put into action using certain basic devices. These include subdivision regulations, zoning, public improvements programming, and capital budgeting.

SUBDIVISION REGULATIONS

This section serves to provide the reader with an overview of the concept and process involved in the development and enforcement of subdivision regulations, one of the most common local land use controls. The quality of subdivisions and the standards that are required determine the form and character of an area. Once land has been divided into blocks and lots, streets built and utilities installed, a development pattern is permanently established and is unlikely to be changed. For generations the entire community and the individuals who live in the subdivision will be influenced by the quality and character of the design. Therefore, subdivision regulations, applied in advance of development, provide a community with its only opportunity to ensure that new neighborhoods are properly designed and constructed. Considering subdivision regulation in its commercial and industrial context, the planning commission is given an opportunity to make sure that these activities are well designed and contribute to a coordinated sense of community.

It is obvious that subdivision regulations play a vital role in implementing the comprehensive plan. Good subdivision regulations help prevent traffic congestion, inadequate streets, undersized water lines, small and overcrowded lots, and they assure a community that the fundamentals which make a pleasant environment for urban living are in place.

HISTORY AND STATUTORY BASIS



Subdivision platting preceded zoning as a form of land use control. Platting began as an alternative to metes and bounds descriptions as a better method of describing and selling land. This was achieved by requiring that land be divided into blocks and lots and by establishing uniform survey methods, boundary descriptions and monument placement. Concern for efficient growth was a secondary but important factor. As communities began to experience new development, there emerged a need to ensure the connection of new streets with existing streets, and platting provided this method of insuring street continuation. Thus, platting in the beginning was mainly a method of recording land titles and transactions and insuring the compatibility of new streets with the existing street pattern.¹

The U.S. Department of Commerce, in 1928, published and promoted the Standard City Planning Enabling Act as a means of developing and implementing the comprehensive plan. State legislatures passed subdivision enabling acts based on this standard model, and these regulations became one implementation tool for guiding and shaping community growth.² Tennessee enacted its planning legislation based on the Model Code in 1935. Various other groups such as the American Bar Association, American Law Institute and the American

Planning Association have published other model codes which update or provide alternatives to the original model code.

Types of Planning Commissions and Jurisdictions in Tennessee

There are four (4) types of planning commissions and jurisdictions allowed by the **Tennessee Code**:

1. The municipal planning commission as described in Section 13-4-101 has as its jurisdiction the incorporated territory of a single municipality.
2. A variation of the municipal planning commission is the municipal-designated regional planning commission. Section 13-3-102, **Tennessee Code**, provides the methodology and procedure under which these commissions are created and operated. The municipal-designated regional planning commission has authority to regulate subdivision activity within a "...planning region composed of the territory of a single municipality together with territory adjoining but outside of such municipality no part of which is more than five (5) miles beyond the limits of such municipality..."
3. Still another kind of planning commission is a regional planning commission. Section 13-3-101, **Tennessee Code**, provides that these commissions may have a jurisdiction composed of the territory of a single county or of contiguous parts of two (2) or more counties together with a part or parts of another county or other counties or any other territory. The majority of regional planning commissions have been single county planning commissions with a jurisdiction composed of the unincorporated territory of that county.
4. **Tennessee Code**, Section 13-3-201, also provides for community planning commissions, which are composed of unincorporated territories, to operate as a regional planning commissions.

Tennessee's Definition of a Subdivision

The definition of a subdivision remained intact from its original passage in 1935 until 1976. Beginning in 1976 through the 1988 session of the Legislature, the definition was amended six times. The current definition of a subdivision for regional and municipal regulations reads as follows:

"Subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites or other divisions requiring new street or utility construction or any division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided.

SUBDIVISION PROCESS

Tennessee Code, Sections 13-3-402 and 13-4-302, require that a major road or street plan be adopted and a certified copy be recorded in the county register's office before the regional or municipal planning commission enforces subdivision regulations. Furthermore a planning commission must hold a public hearing before adoption of subdivision regulations.

While the **Tennessee Code** allows for a variety of standards at the local level, Sections 13-3-403 and 13-4-303 outline the subdivision process and the improvements which a regional and municipal planning commission can regulate. The **Tennessee Code** specifically provides that subdivision regulations may govern streets, water, sewer and other utilities. These statutes also provide for a preliminary and final plat process and the installation of improvements before final plat approval, or the posting of a bond to insure completion of improvements.

Once a plat is submitted to a regional planning commission, it has sixty (60) days to approve or disapprove the plat. A municipal planning commission has thirty (30) days. Failure to act on the plat in the appropriate time frame shall deem the plat to have been approved unless the applicant agrees to waive this requirement and consents to an extension of the time periods.³ Another due process requirement applying to both regional and municipal planning commissions is the need to notify the applicant that a public hearing is to be held on the plat.

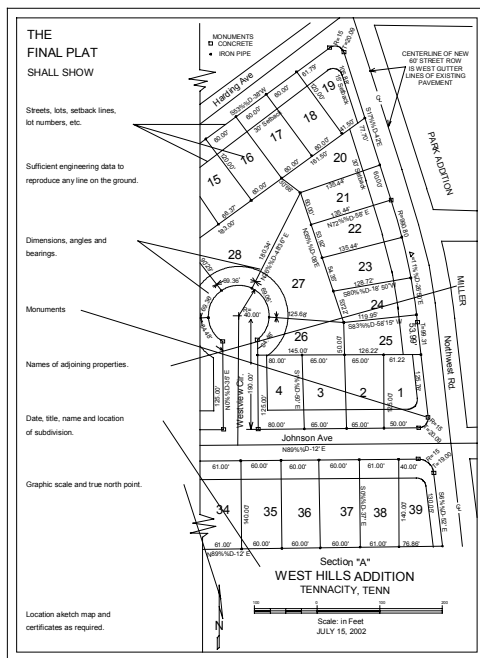
Most subdivision regulations have a fairly common set of procedures that usually include five (5) steps to plat approval. The five (5) steps include the following:

1. **Pre-application Procedures:** Many subdivision regulations suggest that the developer begin by submitting a sketch plat of the proposed subdivision to the planning staff for its recommendation. This provides the developer with the opportunity to receive guidance before proceeding too far.
2. **Preliminary Plat:** This is usually the first official action in the approval process. After approval of the preliminary plat, the developer can proceed with the development of final plans and begin construction of streets, utilities and lot preparation.
3. **Construction of Improvements:** Once preliminary approval is received, the developer may proceed with construction of improvements. Some developers choose to receive final approval, post a performance bond and have the plat recorded before completing construction. This allows the developer to market lots and construct buildings concurrently with improvements.

4. **Final Plat:** The final plat is the last official action to be taken by the planning commission. Once the commission is assured that the plat complies with standards, contains all signatures, and the installation of improvements is assured, the plat should receive final official approval.
5. **Recording the Plat:** After final official approval the developer should record the plat. The recorded plat shows all lots and dimensions along with land dedicated for streets, public uses, and easements. A recorded plat provides a visual picture for potential buyers of lots in the subdivision and serves as a legal instrument. State law does not require that a plat be recorded, although it is strongly advised that this be done.

Some subdivision regulations may require an additional step to those mentioned above. In some regulations, there may be a requirement that construction plans be submitted for approval before any work has begun. These construction plans are normally reviewed and

approved at the time of preliminary plat approval if completion of all improvements is anticipated before final plat approval. If a bond is to be posted, the construction plans could be approved at any point before final plat approval. In any case, the construction plans are reviewed and approved before any work can commence on the subdivision and before final plat approval.



The construction plans should include street plans and profiles, water and sewer layouts and drainage plans. The University of Tennessee Municipal Technical Advisory Service has published a document titled Local Government Public Works and Specifications which provides local governments with basic construction standards for public works and utility projects. These and other quotable standards are used in subdivision regulations prepared by the Local Planning Assistance Office.

Once a plat is approved, the responsibility of the planning commission shifts from a review function to an enforcement role. A community may have good regulations, but they are useless if not strictly and fairly enforced.

In many instances the local building official or other department heads have the responsibility to inspect improvements as they are constructed. Some communities are unable to hire additional employees or contract with outside engineering firms to assist the local staff. These smaller and less active communities will generally depend on their local staff with assistance from the planner.

Performance Bonding

After a preliminary plat is approved by the planning commission, the developer must decide if improvements will be constructed before recording the plat or if some type of surety instrument will be posted to insure completion of improvements. Sections 13-3-403 and 13-4-303 of the **Tennessee Code** grant to a planning commission the authority to include in the subdivision regulations a provision that in lieu of completing all improvements, there may be posted a surety instrument (bond) to allow final approval and recording of the plat. These bonds shall be in an amount and with conditions acceptable to the planning commission and the community's legal counsel. If the improvements are not constructed or provisions are not made to extend the bond, the community is granted the power to enforce these bonds by all appropriate legal and equitable remedies. The law also specifies to whom the bond or other surety should be made. It is extremely important that the entity specified to hold the bond has the legal authority to do so.

There are generally three (3) types of performance bonds used by communities today to assure completion of improvements. The first of these is the surety bond which is essentially a type of insurance policy which once was the most popular type of performance bond. Currently, its use is limited because most bonding companies consider them risky and therefore charge extremely high premiums.⁴

A second type of performance bond is the escrow account, where the developer places the funds in an account to be used for improvements. Escrow accounts have never been popular with developers because they tie up funds for long periods of time.⁵

A frequently used type of performance bond is the irrevocable letter of credit, which is the most popular surety instrument used today. These letters, secured from banks or other financial institutions, pledge to pay the community in case of default by the developer and cannot be revoked without approval of the planning commission. Communities and developers feel this type of bond is best because the community is assured the funds will be easily available in case of default, and the developers are able to obtain the letter less expensively than other forms of guarantees.⁶

Developers usually assume that once the improvements are completed their obligation to the community has ended. However, many communities are beginning to require the developer to file a maintenance bond with the planning commission at time of dedication of the improvements. Maintenance bonds serve as a warranty on the improvements that are being dedicated to the community. The length of time and the amount of such bonds are usually specified in the subdivision regulations and also require acceptance by the planning commission. Caution must be exercised to make sure performance and maintenance bonds are required only for public improvements.

Dedication and Acceptance of Streets and Utilities

The final phase of subdivision development is the dedication of improvements to the community. A common misconception among developers is that the improvements are accepted when the plat is recorded and the bond released. But the law clearly indicates that all improvements remain the responsibility of the developer until the chief legislative body accepts them. Sections 13-3-405 and 13-4-305 of **Tennessee Code** state that approval of a plat by the planning commission shall not constitute an acceptance by the city, county or the public of any road shown on a plat.

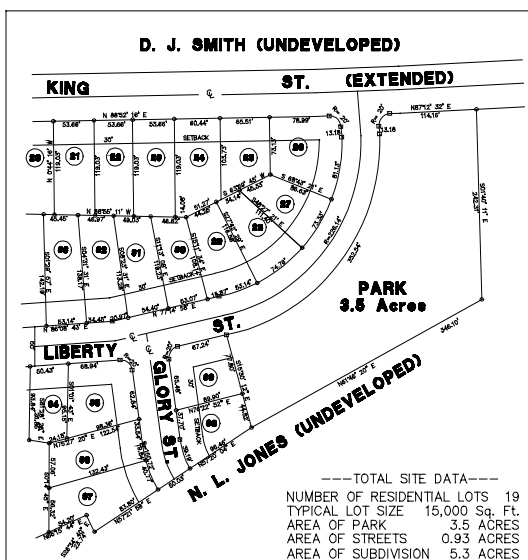
In the case of Foley v. Hamilton, also referred to as the Gatlinburg Case, this provision of the code is substantially reinforced. The developer, in this case, constructed subdivision roads and maintained them for eighteen (18) months as required by the planning commission. At the end of the maintenance period, the bond was released, but the developer did not follow through in having the roads accepted by the county. As a result, the roads were never accepted, and with the passage of several years they became all but impassable. At this point, the property owners filed suit to have the roads repaired. Ultimately decided by the Supreme Court of Tennessee, the decision stated that it is the responsibility of the developer to obtain acceptance of the roads by the community, and until he does, the roads remain the responsibility of the developer.⁷

This is an important ruling, not only from the standpoint of protecting the consumer, but also because the major road plan is implemented through subdivision regulations, and substandard streets and roads added to the system can severely impede the purpose of the plan.

Planning Commission's Role in Plat Review

Strict enforcement of subdivision regulations is essential for the community to ensure that new development is consistent with community standards. Each time a subdivision is

developed, a permanent mark is made on the land. Approval of ill-conceived plats will affect communities for future generations.



A major concern of the planning commission will be with standards for physical improvements. These improvements should be developed to meet design standards that the planning commission has adopted. For example, all new public streets should accommodate future traffic that is anticipated by the commission, and also meet safety requirements that are established in the regulations. They must also agree with the major road or street plan. There should be a storm water system designed to take care of on-site drainage as well as the upstream drainage areas.

All water system improvements should be designed to ensure a capability of providing adequate water for domestic use and fire protection. Line size and system configuration is very important.

Likewise, sewer facilities or subsurface sewage disposal should be installed in a manner prescribed by acceptable public standards. These improvements should be designed so as to be compatible with existing facilities and the anticipated capacity needed for future growth and expansion.

Remedies

Tennessee Code, Section 13-3-402 and 13-4-302, provides that from the time a municipal or regional planning commission adopts a major road or street plan, no plat for the subdivision of land shall be filed or recorded until the plat is approved by the planning commission with the appropriate jurisdiction and endorsed in writing on the plat by the secretary of the planning commission. Although different planning commissions may have different regulations and approval processes, it should be a requirement by all planning commissions that the secretary should sign last. This practice will guarantee that all corrections and conditions placed on the plat by the planning commission have been met before the plat is put to record. In the case of Lake County v. Truett, the courts held that the developer is not relieved of his responsibility to have a plat approved by the planning commission although the commission secretary had erroneously signed the plat and it had been recorded. The Court of Appeals of Tennessee affirmed the decision enjoining the developer from the sale of lots and went even further in directing the county to take whatever steps necessary to cause the illegally recorded plats to be expunged from the records of the county.⁸ If the plat is accidentally recorded without the planning commission's approval, the developer is still legally responsible.

Tennessee Code, Sections 13-3-410 and 13-4-306, makes it a Class C misdemeanor for any person to transfer or sell land by reference to or exhibition of or by other use of a subdivision plat without having it first approved by the planning commission and then recorded in the office of the county register. This also includes the sale or transfer by metes and bounds although land transfer by metes and bounds has been the most common practice used to avoid compliance with provisions of subdivision regulations.

Although the person transferring lots is guilty of a misdemeanor, the county register is also liable if he files or records a plat without the approval of the planning commission. Under Sections 13-3-402 and 13-4-302, any county register recording such a plat shall be deemed guilty of a misdemeanor.

Furthermore, under Sections 13-3-410 and 13-4-306, in instances where the community feels that a person has violated a provision of subdivision law, the local attorney or other official designated by the legislative body may enjoin such transfer or sales by action or injunction. The right of the community to file such a suit was challenged by the defendants in Lake

County v. Truett. Although there was some question as to power of the county judge to employ counsel, the court completely upheld the right of the county to enforce certain provisions of the planning statutes.⁹

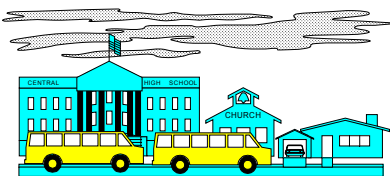
An additional remedy for dealing with developments that do not comply with Sections 13-3-411 and 13-4-308 is the prohibition of issuance of building permits for structures on lots not fronting on streets that have received legal status as a public street. In Foley v. Hamilton, the court cited this section as part of its reasoning for bringing the developer into compliance with subdivision law.¹⁰

Restrictive Covenants

Restrictive covenants, commonly called deed restrictions, are restrictions usually found in deeds between private parties that enumerate certain declared rights of the property owners. In the case of a subdivision, these restrictive covenants would be private contracts between the developer and the buyers of lots. The planning commission is not a party to these covenants, and it does not enforce them.¹¹

Impact Fees

In recent years, the concept of impact fees has become popular in fast growing localities, and is a measure being studied in many Tennessee communities. In an American Planning Association, Planning Advisory Report, the purpose of impact fees was described as follows:



Impact fees are generally imposed as a condition for some approval to proceed with development. Thus, they fall within the general system of land development regulation as contrasted with revenue raising (taxation) programs. The objective of impact fees is not to raise money. Rather, the objective of impact fees is to insure adequate capital facilities. The adequacy of capital facilities is critically important to the entire system of land development regulation. Where capital facilities are not adequate, permitting development is contrary to the responsibility of a local government to protect health, safety, and welfare. Therefore, a requirement that development proceed only when such adequacy is attained or insured is an act protecting the public from the harm that would occur in the absence of the facilities.¹²

Tennessee, following the approach of other states, in May, 1988, enacted the "Tennessee Cooperative Public Facilities Financing Act" which authorized local governments to finance public facilities through the imposition of fair share fees on new growth and development. Criteria for this impact fee is described below:¹³

1. The cost of public facilities for which a fair share impact fee may be assessed, imposed, levied or collected must be reasonably attributable or reasonably related to the service demands of the development which is assessed the fee.
2. Fair share impact fees assessed, imposed, levied or collected for development must not exceed a proportionate share of the costs incurred or to be incurred by the local unit of government in providing public facilities to development.
3. Fair share impact fees shall be used and expended to the benefit of the development that pays the fee.

In addition, the legislation provides:

1. A local government may recoup, through a fair share impact fee, the costs of excess capacity in existing public facilities to the extent development is served by existing public facilities.
2. A local government shall exempt from fair share impact fee programs all development that constitutes affordable housing to low income households as defined by the United States Department of Housing and Urban Development.
3. A local government may exempt from fair share impact fee programs particular types and locations of development that are determined to serve an overriding public interest, provided that such exemptions are specified in the implementing ordinance or resolution.

It should be noted that the bulk of this legislation parallels guidelines presented in the American Planning Association PAS Report No. 408, "The Calculation of Proportionate-Share Impact Fees, The Rational Nexus Test." Its generalized provisions are noted below:¹⁴

1. There must be a reasonable connection between the need for additional facilities and the growth resulting from new development.
2. The fees charged must not exceed a proportionate share of the cost incurred or to be incurred in accommodating the development paying the fee.
3. There must be a reasonable connection between the expenditure of the fees collected and the benefits received by the development paying the fees.
4. The need for additional capital facilities that will be financed with impact fees must be a consequence of new development rather than arising from existing developments.

5. The charges or fees imposed upon a new development must be no more than a proportionate share of the local governments cost of those new capital facilities needed to serve new developments.
6. The revenue raised must be managed and expended at such a time that the development paying the fee will receive a substantial benefit from the improved facility.

Because of the controversial nature of impact fees and resistance from specific groups, the Tennessee Legislation only allows impact fees to be established within certain counties. For a locality other than those within Davidson County to adopt an impact fee system, it is now required that the original act be amended to be general in application or to apply specifically to a town or county through population ranges.

Most localities, primarily counties, are asking the Legislature to enact private acts which allow the imposition of a privilege tax on new development. By making the exaction a privilege tax, the locality can bypass the necessity to correlate an impact fee with the fair share costs of serving the development.

ZONING

Zoning is often a time consuming and controversial exercise for local planning commissions and local legislative bodies alike. For all the time spent and for all the energy consumed, zoning remains one of the most misunderstood functions of local governments in terms of process and substance. The intent in this section is to place zoning in perspective as one of the major land use controls and to present it as an extension of the planning process.

Historical Background

Modern zoning evolved from nuisance laws, sanitary and housing codes, European law and English common law. Even early Roman law addressed a need for protection against encroachments in certain areas and the spatial relationships of certain buildings to other structures.

Acceptability of land use controls in the United States was not immediate or universal. Numerous reasons for its slow development could be noted, but perhaps the most significant reason was the tendency of the courts to go to great lengths to assure that individual property rights were protected from arbitrary control of government. Public control of private land was not only uncommon, it was contrary to the independent, agrarian and enterprising values of that time. Much of that philosophy is still evident in Tennessee today.

Delegation of Authority

Zoning is an exercise of the police power of the State, and as such it must rest on a constitutional or a statutory delegation to local governments. In Tennessee the power to zone is a statutory delegation, and the major legislative provisions are codified as Title 13, Chapter 7 of the **Tennessee Code**. The original grants were conferred by the General Assembly in 1935, and although there have been amendments which modified the language, the basic structure remains much the same. The current codification provides for county zoning, municipal zoning, municipal zoning outside the corporate boundaries and, of more recent vintage, historic zoning.

Comments here are directed to the sections of **Tennessee Code** which apply to comprehensive zoning. Although there is one major difference that will be addressed later, there are two important characteristics of the state statutes that are common to both cities and counties:

1. **The legislation is strictly enabling** - not requiring the exercise of the authority, but requiring that if the delegation is accepted, the zoning function will be exercised in full compliance with the statutes.

2. **The statutes delegate very broad authority** - to cities and counties regarding the substance of local zoning ordinances, with relatively few exemptions or pre-exemptions. Common language in Title 13, Chapter 7 permits the regulations of:

the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land use for trade, industry, residence, public activities and other purposes.

There is also common language which permits zoning of floodplains to meet requirements of the National Flood Insurance Program. Zoning for solar access is also specifically permitted. Mobile home regulation is also a zoning function that derives from state laws on mobile home parks.

The major difference between the city and county delegation of authority is the flexibility afforded counties to zone piecemeal. Similar authority is not granted municipalities.

The Tennessee Statutes are patterned after the Standard State Zoning Enabling Act promulgated by the federal government in 1928. The Standard State Zoning Enabling Act anticipated judicial inquiry into the purpose of zoning, and consequently the Tennessee enabling legislation was fortified with a list of particular purposes intended to be achieved by the regulation of land. These statements of purpose are the specific linkage to the broad police power of the state. They include the provision of adequate light and air, the prevention of undue concentration of population, the lessening of congestion in the streets, the securing of safety from fire, panic, and other dangers, and the protection of property values.¹⁵ The statements of purpose serve to firm up, define and limit delegations of the zoning power which courts had already begun to view as a legitimate function of local governments, but a function which must be used reasonably and constitutionally.

One of the first key decisions in the United States upholding the validity of zoning was a New York decision known as Lincoln Trust Company v. Williams Building Corporation, 229 N.Y. 313, 128 N.E. 209, 1920. The decision upheld the validity of the resolution of 1916 of the Board of Estimate and Apportionment of New York City. Simply stated, the court said the conduct of an individual and the use of his property may be regulated.¹⁶



The first United States Supreme Court decision testing the validity of zoning involved the right of a municipality to enact a comprehensive zoning ordinance. The case grew out of a test of the validity of an ordinance adopted by the City of Euclid, Ohio a suburb of Cleveland. The ordinance was adopted on November 13, 1922, by the Village Council, and upheld by the United States Supreme Court on November 22, 1926. The landmark case is cited as Village of Euclid v. Ambler Realty Company 272 US 365, 47 S. Ct. 115, 71 L. Ed. 303, 1926.¹⁷

The Euclid v. Ambler case quickly had an influence on state courts. Within a few months, the Supreme Court of Tennessee upheld the validity of a municipal zoning ordinance in the City of Memphis, Tennessee (Spencer-Sturla Co. v. City of Memphis, Tennessee, 155 Tenn. 70, 290 S. W. 608, 1927). The Memphis case decided the applicability of the zoning ordinance to exclude a funeral home from a residential district. Supported by the Euclid v. Ambler case, the State court held that such an exclusion was not unreasonable.¹⁸

Zoning ordinances are no different than other police power regulations in that they must be reasonable and fair in their application and must bear a substantial relation to the public health, safety and morals.¹⁹ It has been well-stated that a zoning ordinance's reasonableness becomes one test of its legality.²⁰

It has also been established that if the constitution of a state gives no authority to enact a zoning ordinance, then the authority to enact zoning ordinances must be granted by statute.²¹ The Supreme Court of Tennessee in a decision in 1944, Miller v. City of Memphis, 181 Tenn. 15, 178, S.W. 2d. 382, 151 A.L.R. 1172, 1944, observed the statutory role of the state as follows:

A municipality has no inherent authority to enact ordinances whose validity and enforcement rest on general police powers. All powers of a municipality are derived from the state, but it cannot be doubted that the state may delegate its authority or some portion of it. The police power primarily inheres in the state, but if the state constitution does not forbid, the legislature may delegate a part of such power to the municipal corporation of the state, either in express terms or by implication.²²

By the same token, the State may, without offering rationale, withhold or limit its delegation, and over the years the General Assembly has modified the activities which localities may regulate through zoning. Among the pre-emptions and exemptions which modify the broad delegation are:

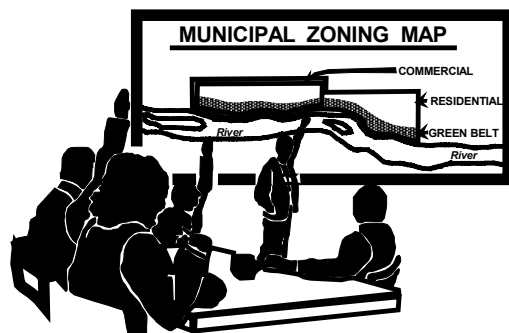
1. Agricultural land and/or buildings - TCA Title 13, Chapter 7, Section 13-7-114 (counties only). TCA 6-54-126 (a part of the Comprehensive Growth Management Law) restates the agricultural exemption found at Title 13 and extends the prohibition to cities also.

2. Historic zoning - TCA Title 13, Chapter 7, Section 13-7-401 through 13-7-410.
3. Airport zoning - TCA Title 42, Chapter 6, Section 42-6-101 through 42-6-115.
4. Solid waste facilities - TCA Title 68, Chapter 211, Part 7.
5. Residences of retarded or handicapped persons - TCA Title 13, Chapter 24, Section 13-24-101 through 13-24-104.
6. Manufactured residential dwellings - TCA Title 13, Chapter 24, Section 13-24-201 through 13-24-202.
7. Telephone and telegraph facilities - TCA Title 13, Chapter 24, Section 13-24-301 through 13-24-303. (Federal Corollary: Section 704 of the Federal Telecommunications Act of 1996).
8. Tellico River Development Authority - TCA Title 64, Chapter 1, Part 7 (pre-empts local zoning control over lands owned or leased by TRDA).
9. Transfer of development rights - TCA Title 13, Chapter 24
10. Contract zoning - TCA Title 13, Chapter 24 (Hamilton County and municipalities therein).

In addition to state proscriptions cited above, there are several federal statutes and regulations that pre-empt local zoning controls. Among these are federal regulations that prohibit local governments from unreasonably restricting licensed amateur radio communication structures and facilities. A more far reaching preemption is contained in the Religious Land Use and Institutionalized Persons Act passed in August 2000 that exempts from any zoning or other land use regulation religious organizations and structures if the regulation would place any substantial burden on the practice of religion.

Adoption and Amendment

Whereas cities and counties are afforded rather broad discretion with respect to the subject matter of zoning, the statutes provide rather strict procedures for the adoption, amendment and administration of ordinances. Failure to observe these procedures places the validity of the ordinance in jeopardy, if tested in the courts.



Basic procedures for both cities and counties are:

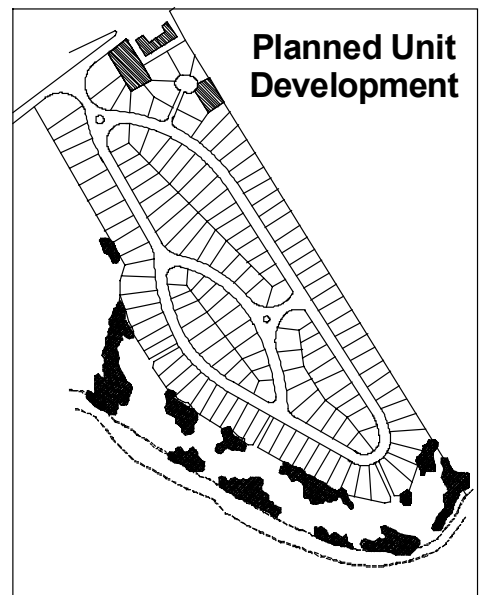
1. Certification of a zoning plan to the legislative body. Certification is made by the planning commission having jurisdiction in the area to be zoned.
2. Public notice and public hearing.
3. Re-submission to the planning commission if there are departures from certified zoning plans.
4. Adoption by legislative body. Majorities needed for passage are dependent on the results of the planning commission reviews and whether it is a city or a county.

Amendments follow the same procedures with only minor differences between cities and counties. The provisions under which a city may zone in its planning region (extraterritorial zoning) are similar, but the statute provides for an additional notification to the county in advance, and the law also allows the county to take back the zoning authority within the municipality's planning region at a later time. Supersession of county zoning over the municipality's extraterritorial zoning is automatic.

Enforcement and Administration

No matter how good a local ordinance is, if enforcement at the local level is lacking or is arbitrary, then the purpose for which the state delegates the authority is compromised. On the other hand, if there is no flexibility to accommodate unusual circumstances or hardships, public confidence in zoning, as a public good, is eroded and is eventually withdrawn. Zoning administration is a balancing act. Fortunately, the Tennessee statutes address this dual need for strict enforcement and flexibility.

Under the law, enforcement is achieved in both cities and counties through a process which requires a "building permit" prior to the use of land or construction or modification of structures. Counties are specifically authorized to establish and fill the position of "Building Commissioner" and the statute specifically predicates the issuance of a building permit on full compliance with the ordinance. The municipal sections of the Tennessee statutes provide for enforcement of the zoning ordinance, but contain less specificity than does the county language. The municipal law refers to the "municipal building commissioner or other administrative official" as the person responsible for issuing orders, requirements, permits and decisions.



In cities and counties the building commissioner, building inspector or zoning administrator is the first person the private citizen encounters in the enforcement process, and the building inspector has only as much discretion as the ordinance allows. His job is to know the ordinance and to enforce it uniformly.

Flexibility is achieved by having an ordinance that is well constructed and through a Board of Zoning Appeals. A Board of Zoning Appeals (BZA hereinafter) is required by statute, performs a quasi-judicial function and, as such, is among the administrative remedies which must be exhausted before most courts will intervene in zoning decisions.

The BZA has three statutory functions:

1. Administrative review of decisions, interpretations and orders of the Building Commissioner or other administrative officer.
2. Decisions on special exceptions defined in the ordinance, interpretation of the zoning map or other "special questions."
3. Granting of variances pursuant to the statute.

Non-compliance with the zoning ordinance is a misdemeanor in both cities and counties, and the statutes provide for injunction, mandamus and other actions or proceedings to ensure compliance. The statutes also name those who may seek action to prevent, abate, or correct a violation.

The state statutes allow some flexibility in the administration and enforcement of the zoning regulations through the issuance of variances in cases of exceptional hardship or unusual circumstances. Problems can arise when the legal guidelines for the issuance of variances are not followed. In many instances, the failure to follow these guidelines can result in lawsuits or in attempts to correct a specific problem through legislative action.

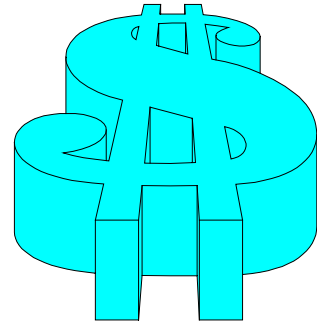
Experienced planners have observed the following zoning administration problem areas in local governments:

1. Identification of who the "Building Commissioner" is, by title or by location within the governmental structure. A particularly bothersome situation occurs when planning commissions or city boards act as the building inspector.
2. Adequate equipment, materials and processes for keeping records of permits issued - a particular necessity where floodplain zoning is in effect and is used to satisfy flood insurance requirements.
3. Boards of Zoning Appeal - powers and limits of authority, especially with respect to granting use variances and other actions that are actually legislative. Record keeping is also a problem area.

4. Appeal of BZA actions to legislative bodies.
5. Statutory exemptions which leave no role for local governments in land use decisions, and which are not given to a state agency or department for review and approval.
6. Statutory pre-emption of city regulation of non-conforming use status of industrial, commercial or business establishments.
7. Misunderstanding or confusion regarding the term "building permit," and the use of the same term by other regulatory agencies, often with different objectives and enforcement remedies.
8. Poorly constructed ordinances, particularly those which do not derive from a well documented, publicly accepted, and economically sensitive land use policy and plan. Of particular concern are ordinances that are enacted for the sole purpose of vetoing one use or activity.

PUBLIC IMPROVEMENTS PROGRAM AND CAPITAL BUDGET

The public improvements program and capital budget are essential to the successful implementation of projects and programs proposed through the comprehensive planning processes of a community. Indeed, if a planning commission is not involved in the programming of public infrastructure expenditures, setting of priorities, and establishing time-tables, the planning commission has reneged its statutory responsibility and real planning is not being done or is being done elsewhere. Preparation of a public improvements program and capital budget, which derive from long range comprehensive planning, is evidence that a community is "practicing" planning. Two assumptions drive this process: the planning commission has planned and is planning; the legislative body and administrative officers are willing to accept the statutory role of the planning commission.



The Process

1. As a part of the comprehensive long range planning process the planning commission proposes a community facilities (public infrastructure) plan to meet the needs of the community for some target date and/or population milestone.
2. The planning commission refines, evaluates and prioritizes the public infrastructure needs identified in the community facility component by five-year increments; a public improvements program is thus produced. This is a mid-range planning document which becomes the basis for the planning commission's annual recommendation to the legislative body for capital expenditures.
3. The capital budget is a planning tool; it is also a financial plan. The focus of the capital budget is short range, programmatic, realistic, accurate. Generally the capital budget is presented in a five or six year timeframe with a complete complement of supporting data which presents funding capacity. The legislative body enacts the capital budget and is, of course, free to alter the recommendations of the planning commission.
4. The planning process is dynamic and the function of the planning commission with respect to community facilities planning, public improvements program, capital budget is to update, re-evaluate, and re-prioritize on an annual basis. Public improvements programming/capital budgeting are cyclical - the job is never done if a community is planning for its future.

FOOTNOTES

¹William I. Goodman and Eric Freund (eds.), *Principles and Practice of Urban Planning*, Municipal Management Series (4th ed.; Washington, D.C.: International City Manager's Association, 1968), pp. 443-444.

²*Ibid.*, p. 444.

³State of Tennessee, **Tennessee Code** (Charlottesville, Virginia: The Michie Company, 1999), Vol. 3B, Sections 13-3-404 and 13-4-304, pp. 198-199 and 210-211.

⁴Brian Rogal, *Subdivision Improvement Guarantees*, American Society of Planning Officials, Planning Advisory Service Report 298 (Chicago: American Society of Planning Officials, 1974), pp. 5-7, 9.

⁵*Ibid.*, pp. 6-7.

⁶*Ibid.*, p. 9.

⁷*Foley v. Hamilton*, 659 S.W. 2d 356 (Tenn., 1983).

⁸*Lake County v. Truett*, 758 S.W. 2d 529 (Tenn. Court Appeals 1988).

⁹*Ibid.*, p. 39.

¹⁰*Foley v. Hamilton*, *op. cit.*

¹¹E.C. Yokley, *Zoning Law and Practice* (4th ed.; Charlottesville, Virginia: The Michie Company, 1979), Vol. IV, pp. 339-340.

¹²James C. Nicholas, *The Calculation of Proportionate-Share Impact Fees*, American Planning Association, Planning Advisory Service Report 408 (Chicago: American Planning Association, 1988), p. 1.

¹³State of Tennessee Public Acts 1988, Public Chapter No. 1022, Tennessee Cooperative Public Facilities Financing Act.

¹⁴Nicholas, *op. cit.*, p. 6.

¹⁵Robert M. Anderson, *American Law of Zoning* (3rd ed.; Rochester, New York: The Lawyers Co-operative Publishing Company, 1986), Vol. I, p. 686.

¹⁶E.C. Yokley, *Zoning Law and Practice* (4th ed.; Charlottesville, Virginia: The Michie Company, 1978), Vol. I, p. 4.

¹⁷*Ibid.*, p. 10.

¹⁸*Ibid.*, p. 46.

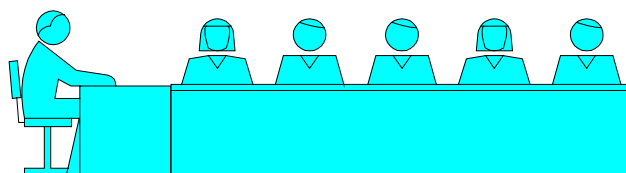
¹⁹*Ibid.*, p. 51.

²⁰*Ibid.*, p. 44.

²¹*Ibid.*, p. 35.

²²*Ibid.*, p. 36.

CHAPTER V



**Planning Commission Conduct;
Officers, Staff and Procedures;
and Citizen Participation;
Training and Continuing Education**

We must remember that our community will be for better or for worse, what we make of it as individuals and collectively. Not only have we the responsibility to make it the best that we possibly can but to do so makes good sense - good sense for us and for those to come.

Herbert H. Smith from The Citizen's Guide To Planning

CHAPTER V

PLANNING COMMISSION CONDUCT; OFFICERS, STAFF AND PROCEDURES; CITIZEN PARTICIPATION; TRAINING AND CONTINUING EDUCATION

This chapter suggests certain principles and guidelines for planning commissions to consider in conducting the public's business. The hallmarks of planning commission decision-making must be honesty, integrity, fairness and equity. The following sections will address planning commission conduct; officers, staff and procedures; and citizen participation.

PLANNING COMMISSION CONDUCT

Proper conduct is considered from both the ethical and legal aspects. It is imperative the planning commission follow these principles and legal requirements in carrying on its business.

ETHICAL PRINCIPLES

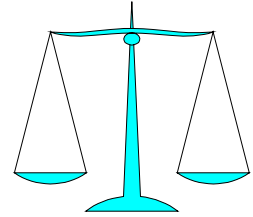
The American Planning Association is a national planning organization which represents the planning community at large, and is the result of the merger of the former American Society of Planning Officials and the American Institute of Planners. Of interest here is the American Planning Association's "Statement of Ethical Principles for Planning." This statement "establishes guidelines for ethical conduct to assure that those individuals whose decisions and actions have long-range consequences for later generations may merit the respect and confidence of other officials, public employees, professional planners, and the public."¹

The planning commission should endorse these principles. In summary, a planning commission is obligated to:

1. Serve the Public Interest.
2. Support Citizen Participation in Planning.
3. Recognize the Comprehensive and Long-Range Nature of Planning Decisions.
4. Expand Choice and Opportunity for All Persons.
5. Facilitate Coordination Through the Planning Process.
6. Avoid Conflict of Interest.
7. Render Thorough and Diligent Planning Services.
8. Not Seek or Offer Favors.
9. Not Disclose or Improperly Use Confidential Information for Financial Gain.
10. Ensure Access to Public Reports and Studies on an Equal Basis.
11. Ensure Full Disclosure at Public Hearings.
12. Maintain Public Confidence.
13. Respect Professional Codes of Ethics and Conduct.

LEGAL ASPECTS OF PLANNING COMMISSION CONDUCT

This section will look at Tennessee's public meetings act and conflict of interest law. These laws provide the legal basis for meeting notification and conduct of public officials. Additionally, the issues of ex parte contact and due process are discussed.



Tennessee Public Meetings Act "Sunshine Law"

The Tennessee Public Meetings Act, Section 8-44-102, **Tennessee Code**, commonly known as the "Sunshine Law" deals specifically with the conduct of public meetings in the State of Tennessee. The purpose of this law is to declare that the formation of public policy is public business and shall not be conducted in secret. It appears that the planning commission shall be required to adhere specifically to the following sections of this law:

1. All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Tennessee Constitution.
2. "Governing Body" means the members of any public body which consist of two (2) or more members, with the authority to make decisions or recommendations to a public body on policy or administration.
3. "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. Meeting does not include any on-site inspection of any project or program.
4. Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.
5. Notice of public meetings.
 - Notice of regular meetings. Any such governmental body that holds a meeting previously scheduled by statute, ordinance, or resolution, shall give adequate public notice of such meeting.
 - Notice of special meetings. Any such governmental body which holds a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law, shall give adequate public notice of such meeting.

- The notice requirements of this part are in addition to, and not in substitution of, any other notice required by law.

Planning commissions in Tennessee must comply with the public meetings act. Essentially this means that all meetings of a planning commission are open to the general public, that adequate notice of such meetings must be given, and that minutes of these meetings be taken and made available for public review.

Conflict of Interest

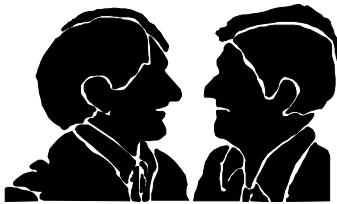
Section 12-4-101 of the **Tennessee Code** deals with the subject of conflict of interest. It is the intent of this section to prevent a public official from directly or indirectly benefiting from the action of a body of which he is a member. The general provisions of this chapter state in part:

1. It shall not be lawful for any officer, committeeman, director or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be directly interested in any such contract. "Directly interested" means any contract with the official himself or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.
2. It shall not be lawful for any officer, committeeman, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges his interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.
3. In the event a member of a local governing body of a county or a municipality has a conflict of interest in a matter to be voted upon by the body, he may abstain for cause by announcing such to the presiding officer. Any member of a local governing body of a county or municipality who abstains from voting for cause on any issue coming to a vote before the body, shall not be counted for the purpose of determining a majority vote.

4. The vote of any person having a conflict of interest who does not inform the governing body of such conflict as provided in subdivision (1) of this subsection shall be void if challenged in a timely manner. As used in this subdivision, "timely manner" means during the same meeting at which the vote was cast and prior to the transaction of any further business by the body.

It is often difficult to determine conflict of interest. However, any member of a planning commission who feels that he has a conflict of interest concerning any subject being discussed by the commission should inform the chair of such and refrain from voting on the matter.

Ex Parte Contact



Black's Law Dictionary defines ex parte as meaning "on one side only", by or for one party; done for, in behalf of, or on the application of, one party only. Simply stated, a contact is ex parte in nature if all parties involved are not properly notified of the contact.²

When faced with dealing with an ex parte contact, members of the planning commission should:

1. Refuse to be obligated to a particular side of any issue prior to a formal meeting of the commission.
2. Insist that any and all information offered to an individual planning commissioner be withdrawn or presented to the whole commission.
3. On-site reviews of a proposed project should be taken by the full commission or by a committee of commissioners not by individuals.
4. Written information concerning an upcoming action of the commission should be made available to all commission members.

Due Process

Due process in each particular situation means an exercise of the powers of government with adequate safeguards of the rights of individuals. The essential elements of due process are notice and the opportunity to be heard. The courts have noted time and again that fairness, not wisdom, is the key element in decision making by local governments.³

To ensure due process, planning commissions must take the following steps:⁴

1. Provide adequate notice of any public hearing. These notices should be easy to read and understand and should be placed so that any interested party will see them. It should ensure that all interested parties have the opportunity to be heard. The commission should make everyone feel that they have had their say, but the commission should not let one side dominate the discussion. Adequate space and convenient time for any public hearing should be provided.
2. Provide staff reports and other information gathered by the planning commission to the public well in advance of the hearing. Persons interested in a subject being considered by the planning commission should have an opportunity to see, hear, and examine all of the statements and evidence considered by the commission. This includes any staff reports, plans, studies, pictures, drawings, and surveys presented to the commission.
3. Provide findings of fact to support the commission's decision. Minutes and other written material should be sent to the legislative body explaining the reasoning behind the planning commission's actions.
4. Avoid the appearance of impropriety. The commission's decision must be fair, impartial and objective, unbiased by even the appearance of having been privately influenced. The courts have stated that members of commissions with the role of conducting fair and impartial fact finding hearings must, as far as practicable, be open-minded, objective, impartial, free of entangling influences and capable of hearing the weak voices as well as the strong.

OFFICERS, STAFF AND PROCEDURES

This section will look at the officers and staff of the planning commission and its procedures for conducting business. Business should be the key word, and a business-like approach to its functions should characterize the planning commission.

OFFICERS AND STAFF - FUNCTIONS AND RELATIONSHIPS

State law mentions only two officers of a local planning commission - chair and secretary. Local commissions may, however, organize themselves with additional officers if they wish. In addition to a discussion of the chair and secretary, the functions and relationships of the planning commission and staff will also be addressed in this section.

Chair



Tennessee Code, Title 13, provides that the chair of the commission shall be elected from among the members who hold no elected office. The chair can not be appointed by the mayor city manager, county executive or county commission.

The law is silent relative to duties, but it is evident that the chair presides over all business meetings of the commission and performs other duties prescribed in the bylaws or other rules.

The chair should, in all cases, provide leadership, represent the commission, and maintain order:

1. The chair sets the tone for the conduct of public meetings, maintaining order and control without becoming heavy-handed or dictatorial; encouraging full, but focused discussion of issues; expediting routine matters, respectful of time demands on members and staff. The chair must be knowledgeable, fair, efficient.
2. The chair represents the planning commission, collectively, through various means of communication with the public, media and legislative body. The chair should periodically (not less than annually) present the annual report, work program, and budget request to the legislative body. The chair should also present rezoning recommendations. More frequent reporting may be

required if the planning commission enjoys a full participatory role in local governmental affairs.

3. The chair is responsible for maintaining order in public meetings of the commission, and, dependent on the organizational structure, may be the conduit for communication with and direction of staff activities. The staff of the planning commission can not effectively serve a planning commission that allows all members to direct, or change direction, of staff activities. The chair should bear the responsibility for establishing clear and effective lines of communication with staff.

Secretary

The specific statutory duty of the secretary is to sign final subdivision plats, signifying that the planning commission has approved the plat for recording. An equally important function is the responsibility for maintaining an accurate record of planning commission actions.

1. The signature of the secretary on a final plat triggers the process through which the County Register may legally record a subdivision. The authority for the secretary to sign the plat must derive from a specific and definitive action by the planning commission. No other officer of local government and no officer of the planning commission has the legal authority to sign a final plat.
2. It is well established that, short of a legal transcript, the minutes of a public body speak definitively for that body. It is not just a good idea - it is imperative that the secretary accept and carry out the responsibility for maintenance of the records of the planning commission. As a minimum, the following procedures should be adopted:
 - Written minutes of each meeting must be prepared and adopted. The minutes must show the date, time and place of the meeting, and a record of members attendance must be included.
 - All actions of the planning commission must be recorded in sufficient detail so as to determine what the issue or action involved, who made motions and seconds, who voted and how. Any request by a member for an exception to be recorded in the minutes should be honored. These procedures are particularly important on site plan reviews, rezoning recommendations, BZA referrals and subdivision reviews.
 - All records must be open to the public; they must, by implication, be kept in a public place. Storage or filing at someone's home or place of business is unacceptable.

- Surety for improvements posted by developers should be monitored by the secretary. Regular reports on the status of sureties and termination dates should be considered a function of the secretary's office.
- The secretary is responsible for recording the major road plan and other official documents of the planning commission.
- Public notices of regular meetings, special called meetings, public hearings and work sessions must be posted pursuant to **Tennessee Code**, Section 8-44-103.

The Planning Commission in its Intergovernmental Context

Planning commissions are official agencies of government, and membership on these commissions carry specific legal responsibilities. The business of the planning commission affects developmental decisions in both the public and private sectors, and the planning commissioner has an obligation to attend meetings, participate knowledgeably in the business at hand, maintain a sense of fairness and to act officially in the public interest. Here are a few things you should know about your tenure:

1. Your planning commission was established pursuant to State law by your city legislative body, if you are a city planning commissioner, or by the Tennessee Department of Economic and Community Development, acting on the request of your county commission if you are on a county planning commission. Planning Commissions are legal entities, not ad-hoc bodies, and they have definite and specific duties to perform within and for local government.
2. Your appointment is for a definite term. In cities the mayor makes the appointment and you serve at the pleasure of the appointing authority (even if it changes in the middle of your term). If you are a county planning commissioner you are nominated by your county executive, and your appointment must be approved by the county commission. If you serve on a joint city/county regional planning commission, you are nominated by your county executive or mayor and appointed by the Department of Economic and Community Development. You are not subject to arbitrary removal by action of the mayor, county executive or county commission.
3. It is legal and, in the case of cities, required, that elected members of the legislative body serve on the planning commission. Elected members, however, can not constitute a majority of the membership of the planning commission.
4. Title 13 of the **Tennessee Code** allows local legislative bodies to establish reasonable compensation for municipal and regional planning commissioners, inclusive of necessary travel expenses and other work related expenses.

5. Inasmuch as you act in an official capacity for certain approvals, disapprovals and recommendations, your actions are subject to review by the judicial system.
6. Appointing authorities are encouraged by law to ensure that the racial composition of municipal and regional planning commissions reflect the relative proportion of minorities in the population of the jurisdiction the commission encompasses.
7. You have a right to expect, and the city or county government has an obligation to supply, support for the work of your commission with space, staff and appropriate recognition.

Staff Relations

As stated previously, a planning commission has the right to expect that the local government will provide staff support for its planning functions as well as administrative support for its operational activities. It may be required that the planning commission share staff, space, equipment, etc., because of budget limitations, but the arrangements should be clearly understood, written, and fairly administered. If the planning commission is



provided with sufficient resources to staff its own planning office, specific provisions for staff qualifications, salaries, supervision and administrative support should be established.

Some important considerations:

1. Your planning staff should be qualified by education and/or experience as a community planner.
2. Your planner should expect the planning commission, legislative body and administration to demonstrate an active interest in planning. You should expect your planner to prepare and present planning documents, recommendations, projects or to supervise those activities by others.
3. The planning staff, in cooperation with the planning commission, should prepare annually a work program for the ensuing year, which also includes an evaluation of the past year's activities. The Annual Performance Report and

Program Design should be adopted by the planning commission as its work outline. The chair should then present the work program in support of the budget request when the administration and/or legislative body prepares the operational budget.

4. The planning commission and local administration should agree on who is to supervise the activities of the staff, whether the staff is local or is hired as a consultant. It is fundamental that a planner can not perform efficiently or professionally unless lines of authority and communication are established and followed.
5. Some administrative and operational tasks which fall within the area of responsibility of the secretary may be delegated to the staff. However, it should be clearly understood that while the job may be delegated, the authority and function of certifying and signing for approval can not be delegated.
6. It may also be a more efficient use of a professional planner's time to delegate administrative tasks to other personnel, thus freeing your planner's time for professional and technical activities.
7. Do not use your planner as your building inspector or zoning compliance officer. The planning commission should likewise refrain from issuing permits.
8. Expect your planner to be an advocate for comprehensive planning, for good urban design, for good land use control standards, and for innovative and progressive projects.
9. If your planner is not an advocate - ask why. If your planning commission, collectively, is not an advocate - ask why.
10. Give your planner the opportunity to do the job. Expect your planner to make recommendations and participate in your discussions.
11. Tolerate no breach of ethics, professional courtesy or legality on the part of your planning staff. Vigorously insist that members of the planning commission, public and local government treat your planner courteously, ethically and as a professional.

ELEMENTS OF PROCEDURE

All organizations need to consider how they will conduct business. Having well defined rules of procedure ensures that there is a continuity beyond the tenure of those who are serving at any given time. The elements of procedure institutionalize the planning commission and give it identity.

Bylaws

Bylaws are defined by Black's Law Dictionary as regulations, ordinance, rules or laws adopted by an association or cooperation or the like for its government.⁵ The **Tennessee Code** does not directly address the subject of bylaws, however, Sections 13-4-102 and 13-3-103 state that a planning commission shall adopt supplemental rules addressing its transactions, findings and determinations. Planning commissions in Tennessee generally adopt these rules as bylaws, outlining procedures for the creation of the commission, the election and duties of officers, the establishment of regular and special meetings, the establishment of a quorum, the manner of voting, attendance requirements, and amendment procedures.

Quorum

A quorum is generally defined as the minimum number of members required for a body to conduct official business. Most organizations require that a majority of the entire membership constitutes a quorum. Although State law does not address the issue of a quorum, it does address the minimum and maximum numbers of members for city and regional commissions. The quorum for a planning commission should consist of a majority of the positions established by the authority which created the commission.

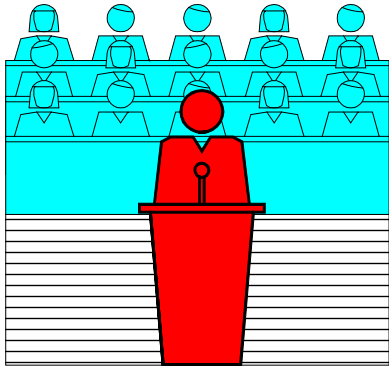
Parliamentary Procedure

There are several publications that provide rules of procedure. Probably, Roberts Rules of Order is the most widely known and used. Every planning commission should adopt rules of procedure, with whatever alterations are appropriate. The planning commission chair should ensure their use.

Agendas

Usually the form and content of the agenda are defined by the bylaws. The agenda should be established prior to the meeting and adopted, as a part of the opening procedures. The agenda puts all parties on notice as to the nature of business to be considered.

CITIZEN PARTICIPATION



Citizen participation is undoubtedly one of the most important factors determining the success of a community planning program. An informed citizenry that is willing to work to achieve the goals and objectives of the planning program is a tremendous asset. A citizenry uninformed about the needs of the community and the programs to achieve community goals and objectives can make shambles of the best intentions of the planning commission and local government. Perhaps the worst enemies to a community planning program are those who reject change or are content with existing facilities and services.

Successful citizen participation can be achieved through a public information and education program designed to inform the community at large of the various purposes and reasons behind the actions of the planning commission and local authorities. Experience has shown that such a public information program yields a valuable sounding board from which valid suggestions and constructive criticisms usually result. This section will suggest the following techniques for disseminating information and obtaining citizen participation in planning commission activities.

Presentations on Planning Program

The planning commission and planning staff should be available to civic groups, schools and other organizations as a speaker on the community planning program. These presentations can produce informed, interested groups that can be an asset when important decisions are being made concerning the future of the community. More importantly, this introduction of planning to school age children enhances the establishment of an informed new generation upon which to build and sustain a planning program.

Public Hearings

Public hearings may be for the purpose of information sharing or to fulfill a legal requirement. The planning commission may hold a public hearing on the development of the comprehensive plan to provide citizens an opportunity to participate in the plan formulation. The **Tennessee Code** requires a public hearing before the planning commission adopts or amends subdivision regulations. The legislative body is required to hold a public hearing before the adoption of zoning. Even though the planning commission is not legally required to conduct a public hearing on zoning, a hearing provides an excellent opportunity to involve the public in the development of the zoning ordinance or resolution prior to presentation to the legislative body for action.

Testimony at Meetings

Testimony at meetings is another technique for obtaining citizen participation. It is wise for the planning commission to establish "ground rules" for receiving testimony. These "ground rules" should be for the purpose of maintaining order, establishing time limits for individual presentations, and avoiding the duplication of testimony. The planning commission should avoid the "pitfall" of asking for a show of hands of citizens in support of and in opposition to an issue before the commission. Planning decisions should not be based on a popularity poll.

Citizen Advisory Committees

The establishment of citizen advisory committees to investigate specific issues or problems and make recommendations to the planning commission or legislative body can be a valuable tool to obtain public participation and support. It is a good idea to have planning commission representation on these committees. This will help to ensure better communication between the planning commission and the advisory committee. These committees should consist of interested citizens, be temporary and be disbanded after the work is completed.

Public Opinion Surveys

The planning commission may in the course of its work conduct factual surveys to obtain demographic information about its citizens. In addition, these surveys may be used to obtain public opinion on community issues. The percentage of returned surveys will typically be small unless the planning commission and staff do an intense follow-up campaign, however, the information received will be valuable in obtaining community wide opinion on issues.

News Articles

News releases to local newspapers and community newsletters can be an important means of disseminating information on the planning program. The planning commission should utilize this opportunity not only to provide information, but also to promote its program and activities.

Radio and Television

In this age of electronic communications, many public meetings are broadcast on radio and television. This brings government directly into the automobiles and homes of the citizenry, often creating debate but also providing information. Planning commissions and planning staff can utilize the airwaves to discuss the general planning program, specific community issues and to respond to questions, concerns or complaints of the citizens.

Internet Sites

In recent years there has been a pronounced trend toward the placement of various types of planning documents and land use control regulations on the internet. In Tennessee some communities place their subdivision regulations and zoning ordinances on the web. This provides an efficient and convenient way to give the public, developers and other interested parties access to these documents. Agendas and notices of public hearings may also be made available to a wider audience than is possible through conventional media outlets. There is an important caveat to keep in mind if your planning commission or governmental body decides to use the internet to increase citizen participation: You must keep your information updated and it must be checked for accuracy.

TRAINING AND CONTINUING EDUCATION

On July 17, 2002 Governor Sundquist signed into law the "Planning Commission and Board of Zoning Appeals Training and Continuing Education Act of 2002."

This law requires that planning commission members and members of boards of zoning appeal attend a minimum of four hours of training and continuing education each calendar year. Subject matter of the training may include, but is not limited to, the following: land use planning, zoning, flood plain management, transportation, community facilities, ethics, public utilities, wireless telecommunications facilities, parliamentary procedure, public hearing procedure, land use law, natural resources and agricultural land conservation, economic development, housing, public buildings, land subdivision, and powers and duties of the planning commission. Failure to attend the requisite training is considered under the law to be grounds for removal from the planning commission or board of zoning appeal.

In addition to planning commissioners and members of boards of zoning appeal, administrative officers and professional planning staff also are required to attend training sessions on the same subject matter. These personnel are required to attend and certify eight hours of training. Sanctions for administrative staff and professional planners who fail to meet the training requirement are not specified in the law.

The legislative body of the county or city is responsible for paying the training and continuing education costs and travel expenses for each planning commissioner and full-time professional planner or other administrative official whose duties include advising the planning commission.

The statute provides that counties or municipalities may opt out of the requirements of this law and may opt back in after having withdrawn for a period.

FOOTNOTES

¹"American Planning Association Statement of Ethical Principles for Planning,"
Journal of the American Planning Association (1987), pp. 35-38.

²Henry Black, Black's Law Dictionary (4th ed.; St. Paul, Minnesota: West Publishing
Company, 1968), p. 661.

³Albert Solnit, The Job of the Planning Commissioner (3rd ed.; Belmont, California:
Wadsworth Publishing Company, 1982), p. 95.

⁴Ibid., pp. 95-104.

⁵Black, op. cit., p. 252.



Selected Reading Material

SELECTED READING MATERIAL

Capital Improvements Program: Linking Budgeting and Planning

APA Planning Advisory Service
Report No. 442
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Citizens Guide to Planning

Herbert H. Smith
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Citizens Guide to Zoning

Herbert H. Smith
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Community Builders Handbook Series

Urban Land Institute
1025 Thomas Jefferson St., NW
Suite 500 West
Washington, DC 20007

Community Planning: An Introduction to the Comprehensive Plan

Eric Damian Kelly and Barbara Becker
Island Press
58440 Main St.
P.O. Box 7
Covelo, California 95428

Comprehensive City Planning

Melville C. Branch
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Design with Nature

Ian L. McHarg
John Wiley and Sons, Inc.
Distribution Center
1 Wiley Drive
Somerset, NJ 08875-1272

Guidelines for Preparing Urban Plans

Larz T. Anderson
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Job of the Planning Commissioner

Albert Solnit
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Job of the Practicing Planner

Albert Solnit
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Managing Development in Small Towns

American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Model Subdivision Regulations

James H. Freilich and Michael Shultz
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

A Planner's Guide to Land Use Law

American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Planning, Growth and Public Facilities: A Primer for Local Officials

APA Planning Advisory Service
Report No. 447
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Planning Small Town America

Kristina Ford
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Practice of Local Government Planning

International City/County Manager's Association
777 North Capitol Street, NE, Suite 500
Washington, DC 20002

A Practitioner's Guide to Development Impact Fees

James C. Nichols, Arthur C. Nelson,
and Julian C. Juergensmeyer
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Preparing a Conventional Zoning Ordinance

Charles A. Lierable
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Professional Practice Manual

Les Solin
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

Small Town Planning Handbook

Thomas L. Daniels, John W. Keller and
Mark B. Lapping
American Planning Association
122 South Michigan Avenue, Suite 1600
Chicago, Illinois 60603

The Subdivision and Site Plan Handbook

David Listokin and Carole Walker
Center for Urban Policy Research
Civic Square, Suite 400
33 Livingston Ave.
New Brunswick, NJ 08901-4982

Urban Land Use Planning

Kaiser, Godschalk and Chapin
University of Illinois Press
Myra Thompson
4484 Parishville Road
Yonges Island, South Carolina 29449